













THE  
LEGISLATIVE ACTS

OF THE  
GOVERNOR-GENERAL OF INDIA  
IN COUNCIL

FOR

1873.

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1874.



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THE  
LEGISLATIVE ACTS  
OF THE  
GOVERNOR-GENERAL OF INDIA IN COUNCIL,  
FOR 1873.

ACT I OF 1873.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(*Received the assent of the Governor-General on the 7th January 1873.*)

*An Act to amend the Burma Courts' Act, 1872.*

Preamble.	WHEREAS it is expedient to amend the Burma Courts' Act, 1872; It is hereby enacted as follows:—
Short title.	1. This Act may be called "The Burma Courts' Act Amendment Act."
Local extent.	It extends only to the territories under the administration of the Chief Commissioner of British Burma:
	Sections eleven, twelve and thirteen shall come into force at the expiration of two months after the passing of this Act. The rest of this Act shall come into force at once.
Commencement.	2. Save as otherwise provided by the Burma Courts' Act, 1872, and by this Act, the Code of Civil Procedure shall be, and shall, on and from the fifth day of April 1872, be deemed to have been in force throughout British Burma.
Code of Civil Procedure applied to Burma.	3. Notwithstanding anything contained in the Code of Civil Procedure, section six, every Deputy Commissioner may direct suits to be instituted in the Courts subordinate to him, according to such rules as to the description of the suits, and the amount or value of their subject-matter as he shall from time to time, with the sanction of the Judicial Commissioner, prescribe in this behalf,
Power to distribute business.	and may also, with the like sanction, direct the business of the said Courts to be distributed among them in such way as he thinks fit: provided that no Court shall try any suit where the amount or value of the subject-matter exceeds its proper jurisdiction.
Language of plaints and record of evidence.	4. Notwithstanding anything contained in the Code of Civil Procedure, sections twenty-six and one hundred and seventy-two, plaints may be written and evidence may be taken down in such language or languages as the Chief Commissioner shall from time to time direct in this behalf.



5. Notwithstanding anything contained in the said Burma Courts' Act, 1872, and subject to any express provision to the contrary contained in any other Act for the time being in force, an appeal shall lie from the decrees and orders of the Courts of original jurisdiction in British Burma to the Courts empowered by the said Act, section eight and section sixty-nine, respectively, to hear appeals from decrees and orders.

All such appeals, presented between the fifth day of April 1872 and the passing of this Act, shall be deemed to have been presented under this section.

6. In the interval between the presentation of an appeal under section sixty-nine of the said Burma Courts' Act, 1872, and the hearing thereof by the Special Court, the appeal and all applications relating thereto shall be dealt with by the Judicial Commissioner as if it were an appeal presented in his own Court.

Appeals to Special Court.

Special Court to be deemed a High Court under Acts VII of 1870 and IX of 1871.

7. For the purposes of the Court Fees' Act, 1870, the said Special Court shall be deemed to be a High Court in the exercise of its jurisdiction as a Court of Appeal or as a Court of Reference, as the case may be.

For the purposes of the Indian Limitation Act, 1871, appeals and applications to the said Special Court shall be deemed to be, respectively, appeals and applications to a High Court under the Code of Civil Procedure or under the Code of Criminal Procedure, as the case may be.

Application of Acts VII of 1870 and XI of 1871 to certain petitions to Judicial Commissioner.

8. When the civil appellate jurisdiction of any Commissioner has, under section twenty-nine of the Burma Courts' Act, 1872, been transferred to the Judicial Commissioner,

(a.) all petitions and other documents presented to the Judicial Commissioner in the exercise of the jurisdiction so transferred shall, for the purposes of the Court Fees' Act, 1870, be deemed to have been presented to the Commissioner :

(b.) and all appeals and applications presented to the Judicial Commissioner in the exercise of the jurisdiction so transferred shall, for the purposes of the Indian Limitation Act, 1871, be deemed to have been presented to him in the exercise of his ordinary jurisdiction.

9. In any case in which a Court of first appeal has, in the opinion of the Judicial Commissioner, wrongly refused to submit a statement under section thirty-five of the Burma Courts' Act, 1872, the Judicial Commissioner may call for the record of the case, and may, on receipt of such record, proceed to try the case as if it were an appeal instituted in his own Court.

And in any case in which a Court of first appeal has submitted such a statement, but, in the opinion of the Judicial Commissioner, the statement is unduly limited, or justice cannot be done without rehearing the case,

the Judicial Commissioner may proceed to try the case as if it were an appeal instituted in his own Court.

The Judicial Commissioner shall send the Court of first appeal a copy of his judgment in any case tried under this section, and the said Court shall dispose of the case in conformity with such judgment.

10. To section thirty-five of the said Act, the following words shall be added : "and a certified copy of such reasons shall, on application to the Court, be furnished to any party to the suit."

11. No person shall be permitted to appear, plead or act as the advocate of any suitor, or of any appellant, complainant or accused person, in the Court of the Judicial Commissioner, or in any Court, whether civil or criminal, subordinate thereto, unless such person is licensed thereto by the Judicial Commissioner, either generally or specially.

Licensing of advocates.

Rules for their qualification and admission.

The Judicial Commissioner may from time to time make rules for the qualification, admission, and enrolment of proper persons to appear, plead or act as aforesaid ; and for the suspension or dismissal of any such persons who are guilty of fraudulent or grossly improper conduct.

All such rules shall be published in the local official Gazette.

Any person appearing, pleading or acting in contravention of any such rule shall be liable, by order of the Court, to a fine not exceeding five hundred rupees.

Saving of agents of Government, suitors, co-suitors, and advocates of High Courts.

12. Notwithstanding anything contained in section eleven or in any rule made thereunder,

any person may appear, plead or act as the agent for the Crown or for the Secretary of State for India in Council,

and any suitor may appear, plead or act on behalf of himself or a co-sutor;

and any person who for the time being is an advocate, vakil or attorney-at-law of any High Court may appear, plead or act as the advocate of any suitor in the Court of the Judicial Commissioner or any Court subordinate thereto.

And nothing contained in section eleven or in any rule made thereunder shall be deemed to affect the second clause of section 186 of the Code of Criminal Procedure.

13. The fees to be received by any advocate, for business done in the Court of the

Fees liable to taxation.

Judicial Commissioner or in any Court subordinate thereto, shall at all times be subject to the control and taxation of the presiding

Judge; and no such fees shall be recoverable unless they have been allowed on taxation by the said Judge, or such officer as he appoints in this behalf.

The Judicial Commissioner may from time to time make rules regulating the control and taxation of costs in such subordinate Courts.

14. No trial had by the Commissioner or Deputy Commissioner at Courts of

Saving of certain trials at Maulmain, Rangoon and Akyah.

Session in the towns of Maulmain, Rangoon and Akyah shall be deemed to have been invalid merely on the ground that such trial was not by jury.

## ACT II OF 1873.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 21st January 1873.)

### *An Act for regulating Ferries in British Burma.*

Preamble.

WHEREAS it is expedient to regulate the public ferries within the Province of British Burma;

It is hereby enacted as follows:—

#### *I.—Preliminary.*

Short title.

1. This Act may be called "The Burma Ferries' Act, 1873:"

Local extent.

It extends only to the territories under the administration of the Chief Commissioner of British Burma;

Commencement.

And it shall come into force on the passing thereof.

#### *II.—Public Ferries.*

2. The Chief Commissioner may declare what ferries within any part of British Burma shall be deemed public ferries, and the district in which, establish public ferries.

for the purposes of this Act, they shall be deemed to be situate, and may at any time hereafter establish new ferries, where, in his opinion, they are needed,

and may, from time to time, change the course of any public ferry, or discontinue any public ferry which he deems unnecessary.

Every such declaration, establishment, change or discontinuance shall be made by notification in the local official Gazette,

3. The immediate superintendence of all public ferries shall, except as hereinafter provided, be vested in the Deputy Commissioner of the district in which they are situate,

and he shall make all necessary arrangements for the supply of boats for such ferries, and for the collection of the authorized tolls leviable thereat.

4. The Chief Commissioner may direct that any public ferry situated within the limits of a town may be managed by the officer or public body charged with the superintendence of the municipal arrangements of such town,

Management may be vested in local municipality;

and proceeds paid into Municipal Fund.

and may further direct that all or any part of the proceeds from such ferry shall be paid into the Municipal Fund of such town,

and thereupon such ferry shall be managed, and such proceeds or part thereof shall be paid, accordingly.

5. The tolls of any public ferry may be put up to public auction for such term not exceeding three years as may be deemed expedient by the Commissioner of the Division in which such ferry is situate, and may be let to the highest bidder.

Letting ferry-tolls by auction.

The lessee shall conform to the rules made under this Act for the management and control of such ferry,

and may be called upon by the officer putting the tolls of the ferry up to auction to give such security for his good conduct and for the punctual payment of the rent as such officer may deem fit,

Such officer may, for sufficient reason duly recorded in writing, refuse to accept the offer of the highest bidder, and may accept any other bid, or may withdraw the tolls from auction.

6. Subject to the revision and confirmation of the Chief Commissioner, the Commissioner of each Division shall have power to make rules consistent with this Act—

Power to make rules.

for the control and the management of all public ferries within his division;

for regulating the time and manner in which, and the terms on which, the tolls of such ferries may be let by auction;

for collecting the rents payable for the tolls of such ferries;

and for fixing the limits of the same;

and when the tolls of a ferry have been let under section five, he shall have power (subject as aforesaid) to make additional rules—

for regulating the number and kinds of boats and their dimensions, and the number of crew for each boat, which the lessee of the tolls will be required to keep;

the hours during which he shall be bound to ply,

and the number of passengers, carts, carriages and animals, and the quantity of goods, that may be carried in each kind of boat at one trip;

and for the keeping of such boats continually in good condition for the safe conveyance of passengers and property.

The lessee shall make such returns of traffic as the Commissioner may from time to time require.

Private ferry not to ply within certain distance of public ferry without sanction.

7. No person shall, except with the sanction of the officer charged with the management of a public ferry, keep a ferry-boat for the purpose of plying for hire within the limits of such public ferry.

Nothing hereinbefore contained shall prevent persons plying between two places, one of which is without and one within the said limits, or apply to boats which the Chief Commissioner expressly exempts from the operation of this section.

### III.—Tolls.

8. Tolls, according to such rates as are from time to time fixed by the Chief Commissioner, shall be levied on all persons, animals and other things carried by means of any public ferry:

Tolls.

Provided that the Chief Commissioner may, from time to time, declare what persons, animals or other things shall, when employed or transmitted on the public service or for other sufficient reason, be exempt from payment of such tolls.

Where the tolls of a ferry have been let under section five, any such declaration, if made after the date of the auction, shall entitle the lessee to such abatement of the rent payable in respect of the tolls as may be fixed by the Commissioner of the Division with the concurrence of the Chief Commissioner.

9. The lessee or other person authorized to collect the tolls of any public ferry, shall affix a table of such tolls, legibly written or printed in the vernacular language, in some conspicuous place near the ferry,

and shall be bound to produce, on demand, a list of the tolls, signed by the Deputy Commissioner or such other officer as he appoints on this behalf.

10. All tolls or rents received under this Act shall, except in the cases provided for by section four, be credited to the district fund.

#### IV.—Penalties.

Penalty for failing to affix, or for removing, &c., table of tolls.

11. Every lessee or other person authorized to collect the tolls of a public ferry, who neglects to affix and keep in good order and repair the table of tolls mentioned in section nine,

or who wilfully removes, alters or defaces such table, or allows it to become illegible, or who fails to produce, on demand, the list of the tolls mentioned in section nine, shall be liable to fine not exceeding twenty rupees.

Penalty for taking unauthorized toll,

12. Every such lessee or other person as aforesaid asking or taking other than the lawful toll,

and for causing delay.

or without due cause delaying any person, animal or other thing,

shall be liable to a penalty not exceeding fifty rupees.

Cancellation of lease on breach of rules.

13. In the event of any breach by a lessee of the tolls of a ferry of the rules for the management of such ferry made under section six,

the Deputy Commissioner may impose upon him a fine not exceeding twenty rupees, and in that event, or in the event of repeated liability to the penalties respectively provided by sections eleven and twelve,

the Deputy Commissioner may also, with the sanction of the Commissioner of the Division, cancel the lease of the tolls of such ferry and make other arrangements for its management during the whole or any part of the term for which the tolls were let.

Penalties on passengers offending.

14. Every person crossing at any public ferry who refuses to pay the proper toll,

or who, with intent of avoiding payment thereof, fraudulently or forcibly crosses any ferry-station without paying the toll,

or who obstructs any toll-collector or lessee of the tolls of a public ferry, or any of his assistants, in any way in the execution of their duty under this Act,

shall be liable to fine not exceeding fifty rupees over and above the value of the damage, if any, which he has done.

15. Whoever conveys for hire any passenger, animal, cart, carriage or other vehicle, or any goods or merchandise, to or from any point within the limits assigned to each public ferry, in contravention of the provisions hereinbefore contained, shall be liable to fine not exceeding fifty rupees.

Where the tolls of such ferry have been let under the provisions hereinbefore contained, the whole or any portion of any penalty realized under this section or section fourteen may, at the discretion of the convicting Magistrate or Bench of Magistrates, be paid to the lessee.

16. All offences against this Act shall be heard and determined by any Magistrate or Bench of Magistrates; and any Magistrate or Bench of Magistrates having summary jurisdiction under Chapter XVIII of the Code of Criminal Procedure, shall try such offences in manner provided by that chapter.

Officers by whom offences are triable.

Every Magistrate or Bench of Magistrates trying offences under this section may enquire into and assess the value of the damage (if any) done by the offender to the ferry concerned, and shall order the amount of such value to be paid by him in addition to any fine imposed upon him under this Act; and the amount so ordered to be paid shall be leviable as if it were a fine.

## ACT III OF 1873.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 21st January 1873.)

*An Act to consolidate and amend the law relating to the Civil Courts of the Madras Presidency subordinate to the High Court.*

WHEREAS it is expedient to consolidate and amend the law relating to the Civil Courts of the Madras Presidency subordinate to the High Court; It is hereby enacted as follows:—

Preamble.

### PART I.

#### PRELIMINARY.

1. This Act may be called "The Madras Civil Court's Act, 1873."
- It extends to all the territories for the time being under the government of the Governor of Fort St. George in Council, except the Tracts respectively under the jurisdiction of the Agents for Ganjam and Vizagapatam;
- And it shall come into force on the first day of March 1873.
2. On and from that day the enactments mentioned in the schedule hereto annexed shall be repealed to the extent specified in the third column of such schedule.
3. The number of Subordinate Judges and District Munsifs to be appointed under this Act for each District, shall be fixed, and may from time to time be altered, by the Local Government:
- Provided that no addition to the number of such officers shall be made by such Government without the previous sanction of the Governor-General in Council.
4. The place at which any Court under this Act shall be held may be fixed, and may, from time to time, be altered, in the case of a District Court or a Subordinate Judge's Court, by the Local Government, in the case of a District Munsif's Court, by the High Court.

Short title.

Local extent.

Commencement.

Repeal of enactments.

### PART II.

#### ESTABLISHMENT AND CONSTITUTION OF CIVIL COURTS.

3. The Number of District (heretofore designated Zila) Courts to be established or continued under this Act, shall be fixed, and may from time to time be altered, by the Local Government:
- Provided that no increase to the number of such Courts shall be made by such Government without the previous sanction of the Governor-General in Council.
4. The number of Subordinate Judges and District Munsifs to be appointed under this Act for each District, shall be fixed, and may from time to time be altered, by the Local Government:
- Provided that no addition to the number of such officers shall be made by such Government without the previous sanction of the Governor-General in Council.
5. The place at which any Court under this Act shall be held may be fixed, and may, from time to time, be altered, in the case of a District Court or a Subordinate Judge's Court, by the Local Government, in the case of a District Munsif's Court, by the High Court.

Appointment to vacancy in office of District Judge or Subordinate Judge.

or whenever the Governor-General in Council has sanctioned an addition to the number of District Judges or Subordinate Judges under the provisions of section three or section four,

the Local Government shall appoint to the office such duly qualified person as it thinks proper.

Appointment to vacancy in office of District Munsif.

7. Whenever the office of a District Munsif under this Act is vacant,

or whenever the Governor-General in Council has sanctioned an addition to the number of District Munsifs under the provisions of section four,

the High Court shall appoint to the office such person as it thinks fit:

Provided that he possesses the qualifications for the time being required by the rules in this behalf which the High Court, with the previous sanction of the Local Government, are hereby empowered to make and alter.

Publication of appointments.

Every appointment made under this section shall be published in the same manner as appointments made by the Local Government.

Annulment of appointments.

The Local Government may, for good and sufficient reason, annul any appointment made under this section.

District Courts, Subordinate Judges and District Munsifs.

8. The present Zila Courts, Principal Sadr Amíns, and District Munsifs shall be respectively the first "District Courts," "Subordinate Judges, and "District Munsifs" under this Act.

Seal of Court.

9. Every Court under this Act shall use a seal of such form and dimensions as are, for the time being, prescribed by the Local Government.

### PART III.

#### JURISDICTION.

Local limits of jurisdiction of District Court or Subordinate Judge.

10. The Local Government shall fix, and may from time to time vary, the local limits of the jurisdiction of any District Judge or Subordinate Judge under this Act.

Local limits of jurisdiction of each of several Subordinate Judges.

Provided that, where more than one Subordinate Judge is appointed to any district, the District Judge may assign to each such Subordinate Judge the local limits of his particular jurisdiction within such district.

The present local limits of the jurisdiction of every Civil Court (other than the High Court) shall be deemed to have been fixed under this Act.

Local jurisdiction of District Munsifs.

11. The High Court shall fix, and may from time to time modify, the local jurisdiction of District Munsifs.

Jurisdiction of District Judge or Subordinate Judge in original suits.

12. The jurisdiction of a District Judge or a Subordinate Judge extends, subject to the rules contained in the Code of Civil Procedure, to all original suits and proceedings of a civil nature.

The jurisdiction of a District Munsif extends to all like suits and proceedings, not otherwise exempted from his cognizance, of which the amount or value of the subject-matter does not exceed two thousand five hundred rupees.

Jurisdiction of District Munsif.

13. Regular or Appeals from decrees of District Courts.

special appeals, or appeals under Madras Regulation XI of 1832, section nine, shall, when such appeals are allowed by law, lie from the decrees and orders of a District Court to the High Court.

Appeals from the decrees and orders of Subordinate Judges and District Munsifs shall, when such appeals are allowed by law, lie to the District Court, except when the amount or value of the subject-matter of the suit exceeds rupees five thousand, in which case the appeal shall lie to the High Court:

Appellate jurisdiction of District Court.

Appellate jurisdiction of Subordinate Judge. Provided that, whenever a Subordinate Judge's Court is established in any District at a place remote from the station of the District Court, the High Court may, with the previous sanction of the Local Government, direct that appeals from the decrees or orders of District Munsifs within the local limits of the jurisdiction of such Subordinate Judge be preferred in the Court of the latter :

Disposal of appeal by District Judge. Provided also, that the District Judge may remove to his own Court, from time to time, appeals so preferred, and dispose of them himself, or may, subject to the orders of the High Court, refer any appeals from the decrees and orders of District Munsifs, preferred in the District Court, to any Subordinate Judge within the District.

Valuation of suits for immovable property. 14. When the subject-matter of any suit or proceeding is land, a house or a garden, its value shall, for the purposes of the jurisdiction conferred by this Act, be fixed in manner provided by the Court Fees' Act, 1870, section seven, clause v.

Power to require witness or party to make oath or affirmation. 15. Every Court under this Act may require a witness or party to any suit or other proceeding pending in such Court to make such oath or affirmation as is prescribed by the law for the time being in force.

Law administered by Courts to Natives. 16. Where, in any suit or proceeding, it is necessary for any Court under this Act to decide any question regarding succession, inheritance, marriage or caste, or any religious usage or institution,

(a.) the Muhammadan law in cases where the parties are Muhammadans, and the Hindú law in cases where the parties are Hindús, or

(b.) any custom (if such there be) having the force of law and governing the parties or property concerned, shall form the rule of decision, unless such law or custom has, by legislative enactment, been altered or abolished.

(c.) In cases where no specific rule exists, the Court shall act according to justice, equity, and good conscience.

Judges not to try suits in which they are interested; 17. No District Judge, Subordinate Judge or District Munsif shall try any suit to or in which he is a party or personally interested, or shall adjudicate upon any proceeding connected with, or arising out of, such suit.

nor to try appeals from decrees passed by them in other capacities. No District Judge or Subordinate Judge shall try any appeal against a decree or order passed by himself in another capacity.

Mode of disposing of such suits and appeals. When any such suit, proceeding or appeal comes before any such officer, he shall report the circumstances to the Court to which he is immediately subordinate.

The superior Court shall thereupon dispose of the case in the manner prescribed by the Code of Civil Procedure, section six.

Nothing in the last preceding clause of this section shall be deemed to affect the extraordinary original civil jurisdiction of the High Court.

## PART IV.

### MISCONDUCT OF JUDGES.

Suspension of Judge by Local Government. 18. Any District Judge, Subordinate Judge, or District Munsif may, for any misconduct, be suspended or removed by the Local Government.

Suspension of Subordinate Judge by High Court. 19. The High Court may, whenever it sees urgent necessity for so doing, suspend a Subordinate Judge pending the orders of the Local Government.

The High Court shall immediately report the circumstances of such suspension, and the Local Government shall make such order thereon as it thinks fit.

Suspension of District Munsif by High Court. Commission of Inquiry. 20. The High Court may suspend any District Munsif who is alleged to have misconducted himself, or may appoint a commission for enquiring into his alleged misconduct.

Exercise by High Court of powers conferred on Government by Act XXXVII of 1850.

The provisions of Act No. XXXVII of 1850 (*for regulating enquiries into the behaviour of public servants*) shall apply to enquiries under this section, the powers conferred by that Act on the Government being exercised by the High Court.

On receiving the report of the result of any such enquiry, the High Court may, if it think fit, remove the Munsif from office, or suspend him, or reduce him to a lower grade.

Suspension of District Munsif by District Judge.

21. The District Judge may suspend from office, whenever he sees urgent necessity for so doing, any District Munsif under his control.

Whenever a District Judge exercises the power conferred by this section, he shall forthwith send to the High Court a full report of the circumstances of the case, together with the evidence, if any, and the

Report to High Court.

High Court shall make such order thereon as it thinks fit.

## PART V.

### MINISTERIAL OFFICERS.

Appointment, suspension or removal of Ministerial Officers of District Courts.

22. The Ministerial Officers of the District Court shall be appointed, and may be suspended or removed, by the Judges of such Courts whose orders in such matters shall be final.

Appointment, &c., of Ministerial Officers of Subordinate Courts.

23. The Ministerial Officers of the Courts of the Subordinate Judges and District Munsifs shall be appointed, and may be suspended or removed from office, by such Subordinate Judges and District Munsifs, respectively, subject to the approval or confirmation of the District Judge within whose jurisdiction such Courts are situate.

Rules regulating such appointments.

24. Every appointment under this Part shall be made subject to such rules as the Local Government from time to time prescribes on this behalf.

Every person appointed under this Part shall perform such duties as may from time to time be imposed upon him by the presiding officer of the Court to which he belongs.

Duties of Ministerial Officers.

Present Ministerial Officers.

The present Ministerial Officers of the Courts under this Act shall be deemed to have been appointed under this Part.

## PART VI.

### MISCELLANEOUS.

Temporary discharge of duties of District Judge.

25. In the event of the death of the District Judge,

or of his being incapacitated by illness or otherwise for the performance of his duties, or of his absence from the station in which his Court is held,

the senior Subordinate Judge of the District shall, without interruption to his ordinary duties, assume charge of the District Judge's office, and shall discharge such of the current duties thereof as are connected with the filing of suits and appeals, the execution of processes and the like,

and shall continue in charge of the office until the same is resumed or assumed by an officer duly appointed thereto.

District Judge may nominate to vacancy in office of District Munsif.

26. The District Judge, on the occurrence within his district of any vacancy in the office of District Munsif may, pending the orders of the High Court thereon, appoint such person as he thinks fit to act in such office ;

and he shall at once report to the High Court the occurrence of every such vacancy and such appointment.

District Judge to control Civil Courts of District.

27. Subject to the other provisions of this Act and to the rules for the time being in force and prescribed by the High Court in this behalf, the general control over all the Civil Courts under this Act in any District is vested in the District Judge.



Investiture of Subordinate Judge with Small Cause jurisdiction.

any Subordinate Judge with the jurisdiction of a Judge of a Court of Small Causes for the trial of suits cognizable by such Courts up to the amount of rupees five hundred,

Investiture of District Munsif with similar jurisdiction.

28. The Local Government may, by notification in the official Gazette, invest, within such local limits as it shall from time to time appoint,

and any District Munsif with the same jurisdiction up to the amount of rupees fifty,

and may, by like notification, whenever it thinks fit, withdraw such jurisdiction from the Subordinate Judge or Munsif so invested.

Power to invest Small Cause Court Judge with powers of Subordinate Judge.

29. Section fifty-one of Act No. XI of 1865 shall be read as if, for the words "Principal Sudder Ameen," the words "Subordinate Judge" were substituted.

Sections one, eight, nine, ten and twelve of Madras Act No. I of 1868 (*for the appointment of a Commissioner for the administration of civil and criminal justice and for the superintendence and collection of the revenues on the Neilgherry Hills*) shall be read as if, for the words "Civil" and "Zillah," used therein with reference to a Civil or Zillah Judge or Court, the word 'District' was substituted, and as if, for the words "Principal Sudder Ameen," the words "Subordinate Judge" were substituted.

But save as provided in this section nothing herein contained shall be deemed to affect the said Madras Act.

30. The High Court may permit the Civil Courts under its control to adjourn from time to time for periods not exceeding in the aggregate two months in each year.

#### SCHEDULE.

[Referred to in section 2.]

#### I—MADRAS REGULATIONS.

Number and year of Regulation.	Title of Regulation.	Extent of repeal.
Regulation II of 1802 ...	A Regulation for establishing and defining the jurisdiction of the Courts of Adawlut, or Courts of Judicature, for the trial of Civil Suits in the first instance, in the British Territories immediately subject to the Presidency of Fort St. George.	So much as has not been repealed.
Regulation III of 1802 ...	A Regulation for receiving, trying and deciding suits or complaints declared cognizable in the Courts of Adawlut established in the several zillahs immediately subject to the Presidency of Fort St. George.	The unrepealed part of section seven. The unrepealed part of the first clause of section sixteen.
Regulation XII of 1802 ...	A Regulation for the appointment of the Ministerial Officers of the Civil and Criminal Courts of Judicature.	So much as has not been repealed.

SCHEDULE.—(Continued.)

I.—MADRAS REGULATIONS.—(Continued.)

Number and year of Regulation.	Title of Regulation.	Extent of repeal.
Regulation III of 1816 ...	A Regulation for rescinding Regulation VI of 1806, and for authorizing the Courts of Sudder and Foujdarry Adawlat to sanction the occasional adjournment of the Civil and Criminal Courts under the Presidency of Fort St. George.	So much as has not been repealed.
Regulation VI of 1816 ...	A Regulation for reducing into one Regulation, the Rules which have been passed regarding the Office of Native Commissioners; for modifying and extending their powers in the trial and decision in Civil Suits; and for authorizing them, under designation of District Moonsiffs, to discharge certain additional duties.	So much as has not been repealed.
Regulation VII of 1816 ...	A Regulation for authorizing District Moonsiffs to assemble District Punchayets for the adjudication of Civil Suits for real and personal property, without limitation as to amount or value, within their respective jurisdictions; and for defining the powers and authority to be vested in such District Punchayets.	The whole.
Regulation II of 1821 ...	A Regulation for extending the jurisdiction of the Registers, Sudder Ameens, and District Moonsiffs, and for the more effectual checking of abuses by District Moonsiffs.	So much as has not been repealed.
Regulation VII of 1827 ...	A Regulation for constituting the Office of Native Judge.	The whole.
Regulation II of 1828 ...	A Regulation for improving the administration of justice by District Moonsiffs, in certain respects.	So much as has not been repealed.
Regulation I of 1829 ...	A Regulation for amending the rules in force relative to the trial of appeals and for the better securing of impartiality in the administration of justice.	So much as has not been repealed.
Regulation III of 1833 ...	A Regulation for conferring upon Sudder Ameens jurisdiction in Criminal Cases, and for extending the civil jurisdiction of Registers, Sudder Ameens, and District Moonsiffs.	So much as has not been repealed.

## II—Acts.

Number and year of Act.	Title of Act.	Extent of repeal.
Act No. VII of 1843 ...	An Act for abolishing the Provincial Courts of Appeal and Circuit in the Presidency of Fort St. George, and for establishing new Zillah Courts to perform their functions; for establishing Courts constituted according to Regulations I and II and Regulations VII and VIII of 1827, in place of the existing Civil and Criminal Zillah Courts, and for extending the civil jurisdiction of such Courts.	The whole Act, except sections twenty-six, forty-four and forty-seven.
Act No. IX of 1844 ...	An Act for authorizing the institution of suits in the Courts of Principal Sudder Ameens and Sudder Ameens.	So much as has not been repealed.
Madras Act No. IV of 1863 .	An Act for investing certain Courts in the Presidency of Fort St. George, either wholly or in part, with the jurisdiction exercised by Courts of Small Causes established under Act XLII of 1860.	The whole.
Madras Act No. I of 1865 ...	An Act to provide for the alteration of the stations of Zillah Courts and limits of Districts or Zillahs in the Madras Presidency.	The whole Act, except so much of section one as empowers the Governor in Council of Fort St. George to alter the limits of existing districts.

## ACT IV OF 1873.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

*(Received the assent of the Governor-General on the 21st January 1873.)*

*An Act to provide for the appointment of Municipal Committees in the Panjáb, and for other purposes.*

**WHEREAS** it is expedient to provide for the appointment of Municipal Committees in towns in the Panjáb, and for the police, conservancy, local improvements, and education in such towns, and for the levying of rates and taxes therein; It is hereby enacted as follows :—

*I.—Preliminary.*

Short title.

1. This Act may be called "The Panjáb Municipal Act, 1873 :"

Local extent.

It extends only to the territories under the government of the Lieutenant-Governor of the Panjáb ;

Commencement.

And it shall come into force on the passing thereof.

2. Act No. XV of 1867 (*to make better provision for the appointment of Municipal Committees in the Panjáb, and for other purposes*) and Act No. II of 1872 (*to revive and continue the operation of Act XV of 1867*) are repealed; and Act No. XXVI of 1850 (*to enable improvements to be made in towns*) is repealed so far as it affects the Panjáb.

But all extensions and appointments made, and all limits defined, under the said Act No. XV of 1867, shall be deemed to be, respectively, made and defined under this Act. And an extension of any particular provision of Act No. XV of 1867 shall be deemed to be an extension of the corresponding provision of this Act.

And all assessments, bye-laws, rules and regulations of any kind, relating to matters provided for by this Act, which may heretofore have been made or approved by the Local Government, shall be deemed to have been made under this Act.

And all proceedings taken under any such assessments, bye-laws, rules and regulations shall be deemed to be as valid as if they had been taken under this Act.

3. In this Act "Committee" means a Municipal Committee under this Act.

4. The Local Government may, by notification published in the *Panjáb Gazette*, declare its intention to extend this Act, or any of its provisions, to any town in the said territories.

Any inhabitant of such town objecting to such extension may, within six weeks from the said publication, send his objection in writing to the Secretary to the Local Government, and the Local Government shall take such objection into consideration.

When six weeks from the said publication have expired, the Local Government, if no such objections have been sent as aforesaid, or (where such objections have been sent in) if, in its opinion, they are insufficient, may, by like notification, effect the proposed extension.

5. For the purposes of this Act, the Local Government may, from time to time, by notification in the *Panjáb Gazette*, declare what shall be deemed to be a town for the purposes of this Act, and define the limits of any town to which this Act has been extended.

## II.—Appointment, Duties and Powers of Committees.

6. In every town to which this Act is extended, the Local Government shall appoint, or cause to be appointed, a Committee consisting of not less than five members.

Such members may be appointed as the Local Government from time to time directs, either *ex-officio*, or by nomination, or by election, or some by one and some by any other of such methods:

Provided that (except with the approval of the Governor-General in Council) not less than two-fifths of the members of a Committee shall be persons other than salaried officers of Government.

The Local Government may—

(a) from time to time remove any of the members of any Committee, add to their number, and fill up vacancies occurring among them;

(b) determine the time and manner of the election of those members whom it may direct to be appointed by election, and the persons by whom they shall be elected, and generally make such rules as it thinks fit for regulating such election;

(c) appoint the President and Vice-President, or either of them, of any Committee, or authorise any Committee to appoint, by election from their number, such President, or Vice-President, or both.

No appointment under this section other than the appointment by election of a Vice-President, shall be valid unless and until it is notified in the *Panjáb Gazette*.

7. Subject to any general rules or special orders which the Governor-General in Council may from time to time make in this behalf,

every Committee intending to impose taxes for the purposes of this Act shall, from time to time, give public notice of such intention, and shall in such notice define the persons or property within the town to be taxed for the purposes of this Act, and the amount or rate of the taxes to be imposed hereunder.

Any inhabitant of such town objecting to such notice may, within a fortnight from the date of the said notice, send his objection in writing to the President of the Committee, and the Committee shall take such objection into consideration and report their opinion thereon to the Local Government.

When a fortnight from the date of the said notice has expired, if no such objections have been sent as aforesaid, or (where such objections have been sent in) if, in the opinion of the Committee, they are insufficient, the Committee may, with the previous sanction of the Local Government, to be notified in the *Panjab Gazette*, define the persons or property and the amount or rate of the taxes aforesaid, and may then impose such taxes accordingly.

Powers to make rules for collection and application of rates.

8. The Local Government may from time to time make rules—

as to the persons by whom, and the manner in which, any assessment of taxes under this Act shall be confirmed,

and for the collection of such taxes ;

and for the safety and due application of them when collected ;

and for the rendering and publishing of such estimates and accounts relating to the expenditure of the Municipal Funds, in such form as it may think fit.

No tax shall be collected under this Act, until the assessment thereof has been confirmed by the persons and in manner for the time being prescribed by such rules.

Recovery of rates.

9. Rates and arrears of rates imposed under this Act may be recovered as if they were arrears of land-revenue.

10. All sums received by the Committee of any town to which this Act extends, and all fines levied under this Act, shall constitute a fund, which

Municipal Fund.

shall be called the Municipal Fund of such town, and shall, together with all property which may become vested in such Committee, be under their control, and shall be applied by them as trustees for the purposes of this Act.

11. Every Committee, so far as the Municipal Fund at their disposal permits, shall, after providing out of such Fund for a police establishment in manner hereinafter mentioned,

keep the public streets, roads, drains, tanks and watercourses of the town for which they are appointed clean and repaired ;

and, generally, may do all acts and things necessary for the construction, repair and maintenance of local public works of general utility ;

and may also make provision, by the establishment of new schools or the aiding of already existing schools or otherwise, for the promotion of education ;

and may also make provision for promoting the public health, safety, comfort and convenience.

12. Every Committee shall set apart out of the Municipal Fund such sum as the Local Government from time to time requires for the maintenance

Provision for police.

of the police establishment in the town for which the Committee is appointed.

Power to make rules as to business and officers.

13. Every Committee may make rules for regulating—

the time and place of their meeting ;

the conduct of their business ;

the division of duties among the members of the Committee ;

the duties, salaries, appointment, suspension and removal of the officers and servants of the Committee ;

and other similar matters.

Power to make bye-laws.

14. Any Committee may make bye-laws—

(a) for defining, prohibiting and abating nuisances which are not public or common nuisances under the Indian Penal Code, or under Act No. V of 1861 (*for the regulation of Police*) ;

- (b) for defining the cases, manner and times in and at which the officers of the Committee may enter upon private property for the detection and abatement of nuisances ;  
 (c) for securing a proper registration of births and deaths ;  
 (d) and for carrying out all or any of the purposes of this Act.  
 The Committee may, from time to time, repeal, alter or add to any bye-laws made under this section.

Bye-laws to be confirmed and published.

15. No bye-law, and no alteration or repeal of or addition to a bye-law, shall have effect until it has been confirmed by the Local Government.

All bye-laws made under this Act, and all rules made under section thirteen, and all alterations and repeals of and additions to such bye-laws and rules shall, before coming into force, be published for such length of time, and in such manner, as the Local Government from time to time directs.

16. The officers of the Committee shall have power to enter upon private property for the detection and abatement of nuisances when the Committee shall, under section fourteen, clause (b), have made bye-laws regulating the exercise of such power.

17. The Local Government may, by order, suspend or limit all or any of the powers of any Committee, and may also cancel any of their proceedings, rules or bye-laws, and remit or reduce any tax which they have imposed.

Power to enter on private property.  
 Power to suspend or limit powers of Committees.

### III.—Suits by and against Committees.

Suits by and against Committees.

18. Every Committee shall sue and be sued in the name of their President.

Every contract made on behalf of any Committee in respect of any sum or property exceeding twenty rupees in amount or value, shall be in writing, and shall be signed by the President or Vice-President (if any) and at least two other members of the Committee.

No contract, unless so executed, shall be binding on the Committee on whose behalf it is made.

No member of a Committee shall be personally liable for any contract made or expense incurred by or on behalf of the Committee ; but the funds from time to time in the hands of the Committee shall be liable for, and chargeable with, contracts duly made as aforesaid.

Every member of a Committee shall be liable for any misapplication of money entrusted to the Committee, to which he has been a party, or which happens through, or is facilitated by, his neglect of his duty ;

and he shall be liable to be sued for the same in such Court as the Local Government directs as for money due to the Secretary of State for India in Council.

19. No suit shall be brought against a Committee or any of their officers, or any person acting under their direction, for anything done, or purporting to be done, under this Act, until the expiration of one month next after notice in writing has been delivered or left at the office of the Committee, or at the place of abode of such person, stating the cause of suit and the name and place of abode of the intended plaintiff.

Bar of suit in absence of one month's notice of cause of suit.

Unless such notice be proved, the Court shall find for the defendant.

Every such suit shall be commenced within three months next after the accrual of the right to sue and not afterwards.

And if any person to whom any such notice of suit is given shall, before suit brought, tender sufficient amends to the plaintiff, such plaintiff shall not recover.

### IV.—Penalties.

20. No member or servant of a Committee shall be interested, directly or indirectly, in any contract made with the Committee, and if any such person be so interested, he shall thereby become incapable of continuing in office or in employment as such member or servant, and shall be liable to a fine of five hundred rupees :

Penalty on member or servant of Committee being interested in contracts made with Committee.

Provided that no person, by being a shareholder in, or member of, any incorporated or registered Company, shall be disqualified from acting as a member or servant of a Committee by reason of any contract entered into between such Company and the Committee.

Nevertheless it shall not be lawful for such shareholder or member to act as a member of the Committee in any matter relating to any contract entered into between the Committee and such Company.

21. Whoever infringes any bye-law made and confirmed as directed in this Act, shall be liable to a fine not exceeding fifty rupees, and, in the case of a continuing infringement, to a fine not exceeding five rupees for every day after notice from the Committee of such infringement.

In default of payment of any fine imposed under this section, the defaulter shall be liable to simple imprisonment for a term not exceeding eight days.

22. Prosecutions under this Act for infringements of bye-laws may be instituted before any Magistrate by the Committee, or by any person authorized by the Committee in this behalf.

23. Fines imposed under this Act may be recovered in manner provided by the Code of Criminal Procedure.

## THE GOVERNMENT SAVINGS BANKS ACT, 1873.

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# ACT V OF 1873.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 28th January 1873.)

## *An Act to amend the Law relating to Government Savings Banks.*

**WHEREAS** it is expedient to amend the law relating to the payment of deposits in Government Savings Banks; It is hereby enacted as follows:—

Preamble.

### *Preliminary.*

Short title.

1. This Act may be called "The Government Savings Banks Act, 1873:"

Local extent.

It extends to the whole of British India;

Commencement.

And it shall come into force on the passing thereof.

2. Act No. XXVI of 1855 (*to facilitate the payment of small deposits in Government Savings Banks to the representatives of deceased depositors*) is hereby repealed.

Repeal of Act XXVI of 1855.

Interpretation-clause.

3. In this Act—

"Depositor" means a person by whom, or on whose behalf, money has been heretofore, or shall be hereafter, deposited in a Government Savings Bank; and "deposit" means money so deposited:

"Depositor." "Deposit."

"Secretary."

"Secretary" includes every person empowered to manage a Government Savings Bank;

"Minor."

and "Minor" means a person who has not completed the age of eighteen years.

### *Deposits belonging to the Estates of deceased Persons.*

Payment on death of depositor.

4. If a depositor dies, leaving in a Government Savings Bank a sum of money not exceeding one thousand rupees, and if probate of his will or letters of administration of his estate, or a certificate granted under Act No. XXVII of 1860 (*for facilitating the collection of debts on successions, and for the security of parties paying debts to the representatives of deceased persons*), is not produced to the Secretary of such Bank within three months of the death of the said depositor,

the Secretary of such Bank may pay the said sum of money to any person appearing to him to be entitled to receive it, or to administer the estate of the deceased.

5. Such payment shall be a full discharge from all further liability in respect of the money so paid:

Payment to be a discharge.

But nothing herein contained precludes any executor or administrator, or other representative of the deceased, from recovering from the person receiving the same the amount remaining in his hands after deducting the amount of all debts or other demands lawfully paid or discharged by him in due course of administration.

Saving of right of executor.

And any creditor or claimant against the estate of the deceased may recover his debt or claim out of the money paid under this Act, or the said Act No. XXVI of 1855, to any person, and remaining in his hands unadministered, in the same manner and to the same extent as if the latter had obtained letters of administration of the estate of the deceased.

Saving of right of creditor.

6. The Secretary of any such Bank may take such security as he thinks necessary from any person to whom he pays any money under section four for the due administration of the money so paid, and he may assign the said security to any person interested in such administration.

Security for administration.



7. For the purpose of ascertaining the right of the person claiming to be entitled as aforesaid, the Secretary of any such Bank may take evidence on oath or affirmation according to the law for the time being relating to oaths and affirmations.

Any person who, upon such oath or affirmation, makes any statement which is false, and which he either knows or believes to be false, or does not believe to be true, shall be deemed guilty of an offence under section one hundred and ninety-three of the Indian Penal Code.

8. Where the amount of the deposit belonging to the estate of a deceased depositor does not exceed one thousand rupees, such amount shall be excluded in computing the fee chargeable, under the Court Fees' Act, 1870, on the probate, or letters of administration, or certificate (if any), granted in respect of his property :

Provided that the person claiming such probate or letters or certificate shall exhibit to the Court authorised to grant the same a certificate of the amount of the deposit in any Government Savings Bank belonging to the estate of the deceased. Such certificate shall be signed by the Secretary of such Bank, and the Court shall receive it as evidence of the said amount.

Act not to apply to deposits belonging to estates of European soldiers or deserters.

9. Nothing hereinbefore contained applies to money belonging to the estate of any European officer, non-commissioned officer, or soldier dying in Her Majesty's service in India, or of any European who, at the time of his death, was a deserter from the said service.

#### *Deposits belonging to Minors.*

10. Any deposit made by, or on behalf of, any minor, may be paid to him personally, if he made the deposit, or to his guardian for his use, if the deposit was made by any person other than the minor, together with the interest accrued thereon.

The receipt of any minor or guardian, for money paid to him under this section, shall be a sufficient discharge therefor.

11. All payments of deposits heretofore made to minors or other guardians by any Secretary of a Government Savings Bank shall be deemed to have been made in accordance with law.

Legalization of like payments heretofore made.

#### *Deposits belonging to Lunatics.*

12. If any depositor becomes insane or otherwise incapable of managing his affairs,

and if such insanity or incapacity is proved to the satisfaction of the Secretary of the Bank in which his deposit may be,

such Secretary may, from time to time, make payments out of the deposit to any proper person,

and the receipt of such person, for money paid under this section, shall be a sufficient discharge therefor.

Where a Committee or Manager of the depositor's estate has been duly appointed, nothing in this section authorizes payments to any person other than such Committee or Manager.

#### *Deposits made by Married Women.*

13. Any deposit made by or on behalf of a married woman, or by or on behalf of a woman who afterwards marries, may be paid to her, whether or not the Indian Succession Act, 1865, section four, applies to her marriage; and her receipt for money paid to her under this section shall be a sufficient discharge therefor.

Payment of married women's deposits.

#### *Rules.*

14. All certificates under section eight, and all payments under section ten, section twelve or section thirteen, shall be respectively granted and made by the Secretary of the Bank, subject to such rules consistent with this Act as the Governor-General in Council may, from time to time, prescribe.

Rules regulating certificates under section 8, and payments under section 10, 12 or 13.

# ACT VI OF 1873.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 28th January 1873.)

## *An Act to amend the Law relating to the Transhipment of Goods imported by Steamer, and for other purposes.*

Preamble.

WHEREAS it is expedient to amend the law relating to the transhipment of goods imported by steamer; It is hereby enacted as follows:—

Short title.

1. This Act may be called "The Transhipment of Goods Act, 1873:—"

It extends to the ports of Calcutta, Madras, Bombay, Karachi, Aden, Rangoon, Maulmain, Akyab, and to such other British Indian ports as the

Local extent.

Governor-General in Council may from time to time, by notification in the *Gazette of India*, direct in this behalf;

Commencement.

And it shall come into force on the passing thereof.

2. Act No. XX of 1867 (*to authorize the transhipment without payment of duty of goods imported into Calcutta, Madras and Bombay by Steamers*) is repealed. But all rules, rates and regulations prescribed under the said Act shall be deemed to have been prescribed

under this Act.

Power to permit transhipment without payment of duty.

3. Subject to the provisions hereinafter contained, the chief officer of customs of every port to which this Act extends for the time being may, on application of any person interested as owner, agent, consignee or otherwise in any goods imported by steamer into such port, grant leave to tranship the same without payment of duty at the port of transhipment, and without any security or bond for the due arrival and entry of the goods at the port of destination:

Proviso.

Provided that such goods have been specially and distinctly manifested or declared at the time of import as for transhipment to some other British Indian or foreign port.

Rules regulating exercise of power.

4. The power conferred by section three shall be exercised subject to such rules as the Local Government may from time to time prescribe by notification in the official Gazette.

Levy of transhipment fee.

5. A transhipment fee on each bale or package of any goods or class of goods transhipped under this Act, may be levied at such rates and under such regulations as the Local Government, with the previous sanction of the Governor-General in Council, from time to time prescribes by notification in the official Gazette.

Power to prohibit transhipment.

6. The Governor-General in Council may from time to time, by order notified in the *Gazette of India*, prohibit the transhipment, at any specified port or at all ports, of any specified class of goods, or prescribe any special mode of transhipping any specified class of goods, and may, by like notification, cancel such order.

Duty on opium re-exported by sea.

7. Opium imported by sea into any British Indian port may, if the Local Government think fit, but not otherwise, be re-exported by sea from the same port on payment of a duty equal in amount to the fee to which it would have been liable if it had been transhipped at such port.

Act to be read as part of Act VI of 1863.

8. This Act shall be read as part of the Consolidated Customs Act, and shall not be construed as in any respect limiting the power of the customs officers to levy duty or to require such bonds or other securities as are authorized by the same Act.

## ACT VII OF 1873.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

*(Received the assent of the Governor-General on the 11th February 1873.)**An Act for the levy of Port-dues in the Ports of British Burma.*

WHEREAS it is expedient from time to time to bring ports in British Burma under the provisions of Act No. XXII of 1855 (*for the regulation of Ports and Port-dues*) and to make regulations for the levy of dues in such ports without the necessity of passing a new Act for each occasion; It is hereby enacted as follows:—

Short title.

1. This Act may be called "The Burma Port-dues Act, 1873 :"

Local extent.

It extends only to the ports of British Burma which shall have been declared subject to the said Act No. XXII of 1855 :

To be read with Act XXII of 1855.

It shall be read with and taken as part of the same Act ;

Commencement.

And it shall come into force on the first day of March 1873.

2. In every case in which the Chief Commissioner of British Burma, with the previous sanction of the Governor-General in Council, has declared or hereafter declares any port in British Burma to be subject to the said Act, he may, with the like sanction, by the same or any subsequent declaration, and notwithstanding anything contained in section forty-one of the said Act, further declare—

- (a) the maximum amount of dues to be levied in such port;  
 (b) the conditions and modifications under which such dues shall be levied, and may also from time to time, with the like sanction, vary such maximum amount, conditions and modifications.

3. Provided that the dues so authorized shall be charged only on sea-going vessels of the burden of ten tons and upwards, and shall not exceed the rate of four annas for every ton of burden.

## THE NORTHERN INDIA CANAL AND DRAINAGE ACT, 1873.

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SCHEDULE—Enactments repealed.

ACT VIII OF 1873.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 11th February 1873.)

*An Act to regulate Irrigation, Navigation and Drainage in Northern India.*

WHEREAS, throughout the territories to which this Act extends, the Government is entitled to use and control for public purposes the water of all rivers and streams flowing in natural channels, and of all lakes and other natural collections of still water; and whereas it is expedient to amend the law relating to Irrigation, Navigation and Drainage in the said territories; It is hereby enacted as follows:—

Preamble.

PART I.

PRELIMINARY.

Short title.

1. This Act may be called "The Northern India Canal and Drainage Act, 1873 :"

Local extent.

It extends to the territories for the time being respectively under the government of the Lieutenant-Governors of the North-Western Provinces and the Panjáb, and under the administration of the Chief Commissioners of Oudh and the Central Provinces; and applies to all lands whether permanently settled, temporarily settled, or free from revenue;

Commencement.

And it shall come into force on the passing thereof.

Repeal of Acts.

2. The Acts mentioned in the schedule hereto annexed are repealed to the extent specified in the third column of the said schedule.

Interpretation-clause.

3. In this Act—unless there be something repugnant in the subject or context—

“Canal.”

(1) “Canal” includes—

(a) all canals, channels and reservoirs constructed, maintained or controlled by Government for the supply or storage of water ;

(b) all works, embankments, structures, supply and escape-channels connected with such canals, channels or reservoirs ;

(c) all water-courses as defined in the second clause of this section ;

(d) any part of a river, stream, lake or natural collection of water, or natural drainage-channel, to which the Local Government has applied the provisions of Part II of this Act ;

(2) “Water-course” means any channel which is supplied with water from a canal, but which is not maintained at the cost of Government, and all subsidiary works belonging to any such channel ;

(3) “Drainage-work” includes escape-channels from a canal, dams, weirs, embankments, sluices, groins and other works for the protection of lands

from flood or from erosion, formed or maintained by the Government under the provisions of Part VII of this Act, but does not include works for the removal of sewage from towns ;

(4) “Vessel” includes boats, rafts, timber and other floating bodies ;

(5) “Commissioner” means a Commissioner of a Division, and includes any officer appointed under this Act to exercise all or any of the powers of a Commissioner ;

(6) “Collector” means the head Revenue Officer of a district, and includes a Deputy Commissioner or other officer appointed under this Act to exercise all or any of the powers of a Collector ;

(7) “Canal Officer” means an officer appointed under this Act to exercise control or jurisdiction over a canal or any part thereof ;

“Superintending Canal Officer” means an officer exercising general control over a canal or portion of a canal ;

“Divisional Canal Officer” means an officer exercising control over a division of a canal ;

“Sub-Divisional Canal Officer” means an officer exercising control over a sub-division of a canal.

(8) “District” means a district as fixed for revenue purposes.

4. The Local Government may from time to time declare, by notification in the official Gazette, the officers by whom, and the local limits within which, all or any of the powers or duties hereinafter conferred or imposed shall be exercised or performed.

All officers mentioned in section three, clause (7), shall be respectively subject to the orders of such officers as the Local Government from time to time directs.

## PART II.

### OF THE APPLICATION OF WATER FOR PUBLIC PURPOSES.

5. Whenever it appears expedient to the Local Government that the water of any river or stream flowing, in a natural channel, or of any lake or other natural collection of still water, should be applied or used by the Government for the purpose of any existing or projected canal or drainage-work,

the Local Government may, by notification in the official Gazette, declare that the said water will be so applied or used after a day to be named in the said notification, not being earlier than three months from the date thereof.

6. At any time after the day so named, any Canal Officer, acting under the orders of the Local Government in this behalf, may enter on any lands and remove any obstructions, and may close any channels, and do any other thing necessary for such application or use of the said water.

7. As soon as is practicable after the issue of such notification, the Collector shall cause public notice to be given at convenient places, stating that the Government intends to apply or use the said water as aforesaid, and that claims for compensation in respect of the matters mentioned in section eight may be made before him.

Notice as to claims for compensation.  
Damage for which compensation shall not be awarded.

8. No compensation shall be awarded for any damage caused by—

- (a) stoppage or diminution of percolation or floods ;
- (b) deterioration of climate or soil ;
- (c) stoppage of navigation, or of the means of drifting timber or watering cattle ;
- (d) displacement of labour.

Matters in respect of which compensation may be awarded.

But compensation may be awarded in respect of any of the following matters ;

(e) Stoppage or diminution of supply of water through any natural channel to any defined artificial channel, whether above or under ground, in use at the date of the said notification ;

(f) Stoppage or diminution of supply of water to any work erected for purposes of profit on any channel, whether natural or artificial, in use at the date of the said notification ;

(g) Stoppage or diminution of supply of water through any natural channel which has been used for purposes of irrigation within the five years next before the date of the said notification ;

(h) Damage done in respect of any right to a water-course or the use of any water to which any person is entitled under the Indian Limitation Act, 1871, Part IV ;

(i) Any other substantial damage, not falling under any of the above clauses (a), (b), (c) or (d), and caused by the exercise of the powers conferred by this Act, which is capable of being ascertained and estimated at the time of awarding such compensation.

In determining the amount of such compensation, regard shall be had to the diminution in the market-value at the time of awarding compensation of the property in respect of which compensation is claimed ; and where such market-value is not ascertainable, the amount shall be reckoned at twelve times the amount of the diminution of the annual net profits of such property, caused by the exercise of the powers conferred by this Act.

No right to any such supply of water as is referred to in clauses (e), (f) or (g) of this section, in respect of a work or channel not in use at the date of the notification, shall be acquired as against the Government, except by grant or under the Indian Limitation Act, 1871, Part IV.

And no right to any of the advantages referred to in clause (a), (b) and (c) of this section shall be acquired, as against the Government, under the same Part.

9. No claim for compensation for any such stoppage, diminution or damage shall be made after the expiration of one year from such stoppage, diminution or damage, unless the Collector is satisfied that the claimant had sufficient cause for not making the claim within such period.

Limitation of claims.

10. The Collector shall proceed to enquire into any such claim, and to determine the amount of compensation, if any, which should be given to the claimant ; and sections nine to twelve (inclusive), fourteen and fifteen, eighteen to twenty-three (inclusive), twenty-six to forty (inclusive), fifty-one, fifty-seven, fifty-eight and fifty-nine of the Land Acquisition Act, 1870, shall apply to such enquiries :

Enquiry into claims and amount of compensation.

Provided that, instead of the last clause of the said section twenty-six, the following shall be read : “ The provisions of this section and of section eight of the Northern India Canal and Drainage Act, 1873, shall be read to every assessor in a language which he understands, before he gives his opinion as to the amount of compensation to be awarded.”

11. Every tenant holding under an unexpired lease, or having a right of occupancy, who is in occupation of any land at the time when any stoppage or diminution of water-supply, in respect of which compensation is allowed under section eight, takes place, may claim an abatement of the rent previously payable by him for the said land, on the ground that the interruption reduces the value of the holding.

Abatement of rent on interruption of water-supply.



**12.** If a water-supply increasing the value of such holding is afterwards restored to the said land, the rent of the tenant may be enhanced, in respect of the increased value of such land due to the restored water-supply, to an amount not exceeding that at which it stood immediately before the abatement.

Enhancement of rent on restoration of water-supply. Such enhancement shall be on account only of the restored water-supply, and shall not affect the liability of the tenant to enhancement of rent on any other grounds.

**13.** All sums of money payable for compensation under this Part shall become due three months after the claim for such compensation is made in respect of the stoppage, diminution or damage complained of, and simple interest at the rate of six per cent. per annum shall be allowed on any such sum remaining unpaid after the said three months, except where the non-payment of such sum is caused by the wilful neglect or refusal of the claimant to receive the same.

Compensation when due.

Interest.

### PART III.

#### OF THE CONSTRUCTION AND MAINTENANCE OF WORKS.

Power to enter and survey, &c.

**14.** Any Canal Officer or other person acting under the general or special order of a Canal Officer, may enter upon any lands adjacent to any canal, or through which any canal is proposed to be made, and undertake surveys or levels thereon ;

and dig and bore into the sub-soil ;

and make and set up suitable land-marks, level-marks, and water-gauges ;

and do all other acts necessary for the proper prosecution of any enquiry relating to any existing or projected canal under the charge of the said Canal Officer ;

and, where otherwise such enquiry cannot be completed, such officer or other person may cut down and clear away any part of any standing crop, fence or jungle ;

Power to clear land.

and may also enter upon any land, building or water-course on account of which any water-rate is chargeable, for the purpose of inspecting or regulating the use of the water supplied, or of measuring the lands irrigated thereby or chargeable with a water-rate, and of doing all things necessary for the proper regulation and management of such canal :

Power to inspect and regulate water-supply.

all things necessary for the proper regulation and management of such canal :

Provided that, if such Canal Officer or person proposes to enter into any building, or enclosed court or garden attached to a dwelling-house not supplied with water flowing from any canal, he shall previously give the occupier of such building, court or garden at least seven days' notice in writing of his intention to do so.

Notice of intended entry into houses.

In every case of entry under this section, the Canal Officer shall, at the time of such entry, tender compensation for any damage which may be occasioned by any proceeding under this section ; and in case of dispute as to the sufficiency of the amount so tendered, he shall forthwith refer the same for decision by the Collector, and such decision shall be final.

Compensation for damage caused by entry.

**15.** In case of any accident happening or being apprehended to a canal, any Divisional Canal Officer or any person acting under his general or special orders in this behalf may enter upon any lands adjacent to such canal, and may execute all works which may be necessary for the purpose of repairing or preventing such accident.

Power to enter for repairs and to prevent accidents.

In every such case, such Canal Officer or person shall tender compensation to the proprietors or occupiers of the said lands for all damage done to the same. If such tender is not accepted, the Canal Officer shall refer the matter to the Collector, who shall proceed to award compensation for the damage as though the Local Government had directed the occupation of the lands under section forty-three of the Land Acquisition Act, 1870.

Compensation for damage to land.

**16.** Any persons desiring to use the water of any canal, may apply in writing to the Divisional or Sub-Divisional Canal Officer of the Division or Sub-Division of the canal from which the water-course is to be supplied, requesting such officer to construct or improve a water-course at the cost of the applicants.

Application by persons desiring to use canal-water.

The application shall state the works to be undertaken, their approximate estimated cost, or the amount which the applicants are willing to pay for the same, or whether they engage to pay the actual cost as settled by the Divisional Canal Officer, and how the payment is to be made.

When the assent of the Superintending Canal Officer is given to such application, all the applicants shall, after the application has been duly attested before the Collector, be jointly and severally liable for the cost of such works to the extent mentioned therein.

Any amount becoming due under the terms of such application, and not paid to the Divisional Canal Officer, or the person authorized by him to receive the same, on or before the date on which it becomes due, shall, on the demand of such officer, be recoverable by the Collector as if it were an arrear of land-revenue.

17. There shall be provided, at the cost of Government, suitable means of crossing canals constructed or maintained at the cost of Government, at such places as the Local Government thinks necessary for the reasonable convenience of the inhabitants of the adjacent lands.

On receiving a statement in writing, signed by not less than five of the owners of such lands, to the effect that suitable crossings have not been provided on any canal, the Collector shall cause enquiry to be made into the circumstances of the case, and if he thinks that the statement is established, he shall report his opinion thereon for the consideration of the Local Government, and the Local Government shall cause such measures in reference thereto to be taken as it thinks proper.

18. The Divisional Canal Officer may issue an order to the persons using any water-course to construct suitable bridges, culverts or other works for the passage of the water of such water-course across any public road, canal or drainage-channel in use before the said water-course was made, or to repair any such works.

Such order shall specify a reasonable period within which such construction or repairs shall be completed ;

and if, after the receipt of such order, the persons to whom it is addressed do not, within the said period, construct or repair such works to the satisfaction of the said Canal Officer, he may, with the previous approval of the Superintending Canal Officer, himself construct or repair the same ;

and if the said persons do not, when so required, pay the cost of such construction or repairs as declared by the Divisional Canal Officer, the amount shall, on the demand of the Divisional Canal Officer, be recoverable from them by the Collector as if it were an arrear of land-revenue.

19. If any person, jointly responsible with others for the construction or maintenance of a water-course, or jointly making use of a water-course with others, neglects or refuses to pay his share of the cost of such construction or maintenance, or to execute his share of any work necessary for such construction or maintenance, the Divisional or Sub-Divisional Canal Officer, on receiving an application in writing from any person injured by such neglect or refusal, shall serve notice on all the parties concerned that, on the expiration of a fortnight from the service, he will investigate the case ; and shall, on the expiration of that period, investigate the case accordingly, and make such order thereon as to him seems fit.

Such order shall be appealable to the Commissioner, whose order thereon shall be final.

Any sum directed by such order to be paid within a specified period, may, if not paid within such period, and if the order remains in force, be recovered by the Collector, from the person directed to pay the same, as if it were an arrear of land-revenue.

20. Whenever application is made to a Divisional Canal Officer for a supply of water from a canal, and it appears to him expedient that such supply should be given and that it should be conveyed through some existing water-course, he shall give notice to the persons responsible for the maintenance of such water-course to show cause, on a day not less than fourteen days from the date of such notice, why the said supply should not be so

conveyed ; and, after making enquiry on such day, the Divisional Canal Officer shall determine whether and on what conditions the said supply shall be conveyed through such water-course.

When such officer determines that a supply of canal-water may be conveyed through any water-course as aforesaid, his decision shall, when confirmed or modified by the Superintending Canal Officer, be binding on the applicant and also on the persons responsible for the maintenance of the said water-course.

Such applicant shall not be entitled to use such water-course until he has paid the expense of any alteration of such water-course necessary in order to his being supplied through it, and also such share of the first cost of such water-course as the Divisional or Superintending Canal Officer may determine.

Such applicant shall also be liable for his share of the cost of maintenance of such water-course so long as he uses it.

Application for construction of new water-course.

21. Any person desiring the construction of a new water-course may apply in writing to the Divisional Canal Officer, stating—

(1) that he has endeavoured unsuccessfully to acquire, from the owners of the land through which he desires such water-course to pass, a right to occupy so much of the land as will be needed for such water-course ;

(2) that he desires the said Canal Officer, in his behalf and at his cost, to do all things necessary for acquiring such right ;

(3) that he is able to defray all costs involved in acquiring such right and constructing such water-course.

Procedure of Canal Officer thereupon.

22. If the Divisional Canal Officer considers—

(1) that the construction of such water-course is expedient, and

(2) that the statements in the application are true,

he shall call upon the applicant to make such deposit as the Divisional Canal Officer considers necessary to defray the cost of the preliminary proceedings, and the amount of any compensation which he considers likely to become due under section twenty-eight ;

and, upon such deposit being made, he shall cause inquiry to be made into the most suitable alignment for the said water-course, and shall mark out the land which, in his opinion, it will be necessary to occupy for the construction thereof, and shall forthwith publish a notice in every village through which the water-course is proposed to be taken, that so much of such land as belongs to such village has been so marked out, and shall send a copy of such notice to the Collector of every district in which any part of such land is situate.

23. Any person desiring that an existing water-course should be transferred

Application for transfer of existing water-course. from its present owner to himself, may apply in writing to the Divisional Canal Officer, stating—

(1) that he has endeavoured unsuccessfully to procure such transfer from the owner of such water-course ;

(2) that he desires the said Canal Officer, in his behalf and at his cost, to do all things necessary for procuring such transfer ;

(3) that he is able to defray the cost of such transfer.

Procedure thereupon.

If the Divisional Canal Officer considers—

(a) that the said transfer is necessary for the better management of the irrigation from such water-course, and

(b) that the statements in the application are true,

he shall call upon the applicant to make such deposit as the Divisional Canal Officer considers necessary to defray the cost of the preliminary proceedings, and the amount of any compensation that may become due under the provisions of section twenty-eight in respect of such transfer ;

and, upon such deposit being made, he shall publish a notice of the application in every village, and shall send a copy of the notice to the Collector of every district through which such water-course passes.

24. Within thirty days from the publication of a notice under section twenty-two or section twenty-three, as the case may be, any person interested in the land or water-course to which the notice refers may apply

Objections to construction or transfer applied for.

to the Collector by petition, stating his objection to the construction or transfer for which application has been made.

The Collector may either reject the petition or may proceed to inquire into the validity of the objection, giving previous notice to the Divisional Canal Officer of the place and time at which such inquiry will be held.

The Collector shall record in writing all orders passed by him under this section and the grounds thereof.

25. If no such objection is made, or (where such objection is made) if the Collector over-rules it, he shall give notice to the Divisional Canal Officer to that effect, and shall proceed forthwith to place the said applicant in occupation of the land marked out or of the water-course to be transferred, as the case may be.

When applicant may be placed in occupation.

26. If the Collector considers any objection made as aforesaid to be valid, he shall inform the Divisional Canal Officer accordingly; and, if such officer sees fit, he may, in the case of an application under section twenty-one, alter the boundaries of the land so marked out, and may give fresh notice under section twenty-two; and the procedure hereinbefore provided shall be applicable to such notice, and the Collector shall thereupon proceed as before provided.

Procedure when objection is held valid.

Procedure when Canal Officer disagrees with Collector.

27. If the Canal Officer disagrees with the Collector, the matter shall be referred for decision to the Commissioner.

Such decision shall be final, and the Collector, if he is so directed by such decision, shall, subject to the provisions of section twenty-eight, cause the said applicant to be placed in occupation of the land so marked out or of the water-course to be transferred, as the case may be.

28. No such applicant shall be placed in occupation of such land or water-course, until he has paid to the person named by the Collector such amount as the Collector determines to be due as compensation for the land or water-course so occupied or transferred, and for any damage caused by the marking out or occupation of such land, together with all expenses incidental to such occupation or transfer.

Expenses to be paid by applicant before receiving occupation.

In determining the compensation to be made under this section, the Collector shall proceed under the provisions of the Land Acquisition Act, 1870; but he may, if the person to be compensated so desire, award such compensation in the form of a rent-charge payable in respect of the land or water-course occupied or transferred.

Procedure in fixing compensation.

If such compensation and expenses are not paid when demanded by the person entitled to receive the same, the amount may be recovered by the Collector as if it were an arrear of land-revenue, and shall, when recovered, be paid by him to the person entitled to receive the same.

Recovery of compensation and expenses.

Conditions binding on applicant placed in occupation.

29. When any such applicant is placed in occupation of land or of a water-course as aforesaid, the following rules and conditions shall be binding on him and his representative in interest:—

*First.*—All works necessary for the passage across such water-course, of water-courses existing previous to its construction and of the drainage intercepted by it, and for affording proper communications across it for the convenience of the neighbouring lands, shall be constructed by the applicant, and be maintained by him or his representative in interest to the satisfaction of the Divisional Canal Officer.

*Second.*—Land occupied for a water-course under the provisions of section twenty-two shall be used only for the purpose of such water-course.

*Third.*—The proposed water-course shall be completed to the satisfaction of the Divisional Canal Officer within one year after the applicant is placed in occupation of the land.

In cases in which land is occupied or a water-course is transferred on the terms of a rent-charge,

*Fourth.*—The applicant or his representative in interest shall, so long as he occupies such land or water-course, pay rent for the same at such rate and on such days as are determined by the Collector when the applicant is placed in occupation.

*Fifth.*—If the right to occupy the land cease owing to a breach of any of these rules, the liability to pay the said rent shall continue until the applicant or his representative in interest has restored the land to its original condition, or until he has paid by way of compensation for any injury done to the said land, such amount and to such persons as the Collector determines.

*Sixth.*—The Collector may, on the application of the person entitled to receive such rent or compensation, determine the amount of rent due or assess the amount of such compensation; and if any such rent or compensation be not paid by the applicant or his representative in interest, the Collector may recover the amount, with interest thereon at the rate of six per cent. per annum from the date on which it became due, as if it were an arrear of land-revenue, and shall pay the same, when recovered, to the person to whom it is due.

If any of the rules and conditions prescribed by this section are not complied with, or if any water-course constructed or transferred under this Act is disused for three years continuously,

the right of the applicant, or of his representative in interest, to occupy such land or water-course shall cease absolutely.

30. The procedure hereinbefore provided for the occupation of land for the construction of a water-course shall be applicable to the occupation of land for any extension or alteration of a water-course, and for the deposit of soil from water-course clearances.

Procedure applicable to occupation for extensions and alterations.

## PART IV.

### OF THE SUPPLY OF WATER.

31. In the absence of a written contract, or so far as any such contract does not extend, every supply of canal-water shall be deemed to be given at the rates and subject to the conditions prescribed by the rules to be made by the Local Government in respect thereof.

In absence of written contract, water-supply to be subject to rules.

Conditions as to—

power to stop water-supply;

32. Such contracts and rules must be consistent with the following conditions :—

(a). The Divisional Canal Officer may not stop the supply of water to any water-course, or to any person, except in the following cases :—

(1) whenever and so long as it is necessary to stop such supply for the purpose of executing any work ordered by competent authority, and with the previous sanction of the Local Government;

(2) whenever and so long as any water-course is not maintained in such proper customary repair as to prevent the wasteful escape of water therefrom;

(3) within periods fixed from time to time by the Divisional Canal Officer :

(b). No claim shall be made against the Government for compensation in respect of loss caused by the failure or stoppage of the water in a canal, by reason of any cause beyond the control of the Government, or of any repairs, alterations or additions to the canal, or of any measures taken for regulating the proper flow of water therein, or for maintaining the established course of irrigation which the Divisional Canal Officer considers necessary; but the person suffering such loss may claim such remission of the ordinary charges payable for the use of the water as is authorized by the Local Government :

claims to compensation in case of failure or stoppage of supply;

claims on account of interruption from other causes;

(c). If the supply of water to any land irrigated from a canal be interrupted otherwise than in the manner described in the last preceding clause, the occupier or owner of such land may present a petition for compensation to the Collector for any loss arising from such interruption, and the Collector may award to the petitioner reasonable compensation for such loss :

(d). When the water of a canal is supplied for the irrigation of a single crop, the permission to use such water shall be held to continue only until that crop comes to maturity, and to apply only to that crop; but if it be supplied for irrigating two or more crops to be raised on the same land within

duration of supply;

the year, such permission shall be held to continue for one year from the commencement of the irrigation, and to apply to such crops only as are matured within that year :

(e) Unless with the permission of the Superintending Canal Officer, no person entitled to use the water of any canal, or any work, building or land appertaining to any canal, shall sell or sub-let or otherwise transfer his right to such use: Provided that the former part of this clause shall not apply to the use by a cultivating tenant of water supplied by the owner of a water-course for the irrigation of the land held by such tenant :

But all contracts made between Government and the owner or occupier of any immoveable property, as to the supply of canal-water to such property, shall be transferable therewith, and shall be presumed to have been so transferred whenever a transfer of such property takes place :

(f). No right to the use of the water of a canal shall be, or be deemed to have been, acquired under the Indian Limitation Act, 1871, Part IV, nor shall Government be bound to supply any person with water, except in accordance with the terms of a contract in writing.

## PART V.

### OF WATER-RATES.

Liability when person using unauthorizedly cannot be identified.

33. If water supplied through a water-course be used in an unauthorized manner, and if the person by whose act or neglect such use has occurred cannot be identified, the person on whose land such water has flowed if such land has derived benefit therefrom,

or if such person cannot be identified, or if such land has not derived benefit therefrom, all the persons chargeable in respect of the water supplied through such water-course,

shall be liable, or jointly liable, as the case may be, to the charges made for such use.

34. If water supplied through a water-course be suffered to run to waste, and if after enquiry by the Divisional Canal Officer, the person through whose act or neglect such water was suffered to run to waste cannot be discovered, all the persons chargeable in respect of the water supplied through such water-course shall be jointly liable for the charges made in respect of the water so wasted.

35. All charges for the unauthorized use or for waste of water may be recovered in addition to any penalties incurred on account of such use or waste.

All questions under section thirty-three or section thirty-four shall be decided by the Divisional Canal Officer, subject to an appeal to the head revenue officer of the district, or such other appeal as may be provided under section seventy-five.

36. The rates to be charged for canal-water supplied for purposes of irrigation to the occupiers of land shall be determined by the rules to be made by the Local Government, and such occupiers as accept the water shall pay for it accordingly.

'Occupier's rate.'

A rate so charged shall be called the 'occupier's rate.'

37. In addition to the occupier's rate, a rate to be called the 'owner's rate' may be imposed, according to rules to be made by the Local Government, on the owners of canal-irrigated lands, in respect of the benefit which they derive from such irrigation.

Amount of owner's rate.

38. The owner's rate shall not exceed the sum which, under the rules for the time being in force for the assessment of land-revenue, might be assessed on such land, on account of the increase in the annual value or produce thereof caused by the canal-irrigation. And for the purpose of this

section only, land which is permanently settled or held free of revenue shall be considered as though it were temporarily settled and liable to payment of revenue.

39. No owner's rate shall be chargeable either on the owner or occupier of land temporarily assessed to pay land-revenue at irrigation-rates, during the currency of such assessment.

Owner's rate when not chargeable.  
When occupier is to pay both owner's rate and occupier's rate.

40. If such land is occupied by the owner, or if it is occupied by a tenant whose rent is not liable to enhancement on the ground that the value of the produce of the land or the productive powers of the land has or have been increased by irrigation,

such owner or tenant shall pay the owner's rate as well as the occupier's rate.

41. In the case of a tenant with a right of occupancy, the Local Government shall have power to make rules for dividing the owner's rate between such tenant and his landlord, proportionately to the extent of the beneficial interest of each in the land.

42. If the owner of the land is not the occupier, but has power to enhance the rent of the occupier on the ground that the value of the produce or the productive powers of the land has or have been increased by irrigation ;

or if, when the amount of rent was fixed, the land was irrigated from the canal, the owner shall pay the owner's rate.

43. If a revision of settlement is a ground for entertaining a suit for the enhancement of rent, the introduction of canal-irrigation into any land shall have the same effect on the landlord's right to re-enhance the rent of a tenant with a right of occupancy of such land, as if a revision of settlement had taken place, under which the revenue payable in respect of such land had been increased.

44. Where a water-rate is charged on land held by several joint owners, it shall be payable by the manager or other person who receives the rents or profits of such land, and may be deducted by him from such rents or profits before division, or may be recovered by him from the persons liable to such rate in the manner customary in the recovery of other charges on such rents or profits.

#### *Recovery of Charges.*

45. Any sum, lawfully due under this Part, and certified by the Divisional Canal Officer to be so due, which remains unpaid after the day on which it becomes due, shall be recoverable by the Collector from the person liable for the same as if it were an arrear of land-revenue.

46. The Divisional Canal Officer or the Collector may enter into an agreement with any person for the collection and payment to the Government by such person of any sum payable under this Act by a third party.

When such agreement has been made, such person may recover such sum by suit as though it were a debt due to him, or an arrear of rent due to him on account of the land, work or building in respect of which such sum is payable, or for or in which the canal-water shall have been supplied or used.

If such person makes default in the payment of any sum collected by him under this section, such sum may be recovered from him by the Collector under section forty-five ; and if such sum or any part of it be still due by the said third party, the sum or part so due may be recovered in like manner by the Collector from such third party.

47. The Collector may require the lambardár or person under engagement to pay the land-revenue of any estate, to collect and pay any sums payable under this Act by a third party, in respect of any land or water in such estate.

Such sums shall be recoverable by the Collector as if they were arrears of land-revenue due in respect of the defaulter's share in such estate ;

and for the purpose of collecting such sums from the subordinate zamíndárs, ryots or tenants, such lambardár or person may exercise the powers, and shall be subject to the rules, laid down in the law for the time being in force in respect to the collection by him of the rents of land or of shares of land-revenue.

The Local Government shall provide

(a) for remunerating persons collecting sums under this section ; or

(b) for indemnifying them against expenses properly incurred by them in such collection ; or

(c) for both such purposes.

Fines excluded from sections 45, 46, 47.

48. Nothing in sections forty-five, forty-six or forty-seven applies to fines.

## PART VI.

### OF CANAL-NAVIGATION.

49. Any vessel entering or navigating any canal contrary to the rules made in that behalf by the Local Government, or so as to cause danger to the canal or the other vessels therein, may be removed or detained, or both removed and detained, by the Divisional Canal Officer, or by any other person duly authorized in this behalf.

Detainer of vessels violating rules.

The owner of any vessel causing damage to a canal, or removed or detained under this section, shall be liable to pay to the Government such sum as the Divisional Canal Officer, with the approval of the Superintending Canal Officer, determines to be necessary to defray the expenses of repairing such damage, or of such removal or detention, as the case may be.

Liability of owners of vessels causing damage.

50. Any fine imposed under this Act upon the owner of any vessel, or the servant or agent of such owner or other person in charge of any vessel, for any offence in respect of the navigation of such vessel, may be recovered either in the manner prescribed by the Code of Criminal Procedure, or if the Magistrate imposing the fine so directs, as though it were a charge due in respect of such vessel.

Recovery of fines for offences in navigating canals.

51. If any charge due under the provisions of this Part in respect of any vessel is not paid on demand to the person authorized to collect the same, the Divisional Canal Officer may seize and detain such vessel and the furniture thereof, until the charge so due, together with all expenses and additional charges arising from such seizure and detention, is paid in full.

Power to seize and detain vessel on failure to pay charges.

52. If any charge due under the provisions of this Part in respect of any cargo or goods carried in a Government vessel on a canal, or stored on or in lands or warehouses occupied for the purposes of a canal, is not paid on demand to the person authorized to collect the same, the Divisional Canal Officer may seize such cargo or goods and detain them until the charge so due, together with all expenses and additional charges arising from such seizure and detention, is paid in full.

Power to seize cargo or goods, if charges due thereon are not paid.

53. Within a reasonable time after any seizure under section fifty-one or section fifty-two, the said Canal Officer shall give notice to the owner or person in charge of the property seized that it, or such portion of it as may be necessary, will, on a day to be named in the notice, but not sooner than fifteen days from the date of the notice, be sold in satisfaction of the claim on account of which such property was seized, unless the claim be discharged before the day so named.

Procedure for recovery of such charges after seizure.

And if such claim be not so discharged, the said Canal Officer may, on such day, sell the property seized or such part thereof as may be necessary to yield the amount due, together with the expenses of such seizure and sale :

Provided that no greater part of the furniture of any vessel or of any cargo or goods shall be so sold than shall, as nearly as may be, suffice to cover the amount due in respect of such vessel, cargo or goods.

The residue of such furniture, cargo or goods, and of the proceeds of the sale, shall be made over to the owner or person in charge of the property seized.

54. If any vessel be found abandoned in a canal, or any cargo or goods carried in a Government vessel on a canal, or stored on or in lands or warehouses occupied for the purposes of a canal, be left unclaimed for a period of two months, the Divisional Canal Officer may take possession of the same.

Procedure in respect of vessels abandoned and goods unclaimed.



The officer so taking possession may publish a notice that, if such vessel and its contents, or such cargo or goods, are not claimed previously to a day to be named in the notice, not sooner than thirty days from the date of such notice, he will sell the same; and if such vessel, contents, cargo or goods be not so claimed, he may, at any time after the day named in the notice, proceed to sell the same.

The said vessel and its contents, and the said cargo or goods, if unsold, or, if a sale has taken place, the proceeds of the sale, after paying all tolls, charges and expenses incurred by the Divisional Canal Officer on account of the taking possession and sale, shall be made over to the owner of the same, when his ownership is established to the satisfaction of the Divisional Canal Officer.

If the Divisional Canal Officer is doubtful to whom such property or proceeds should be made over, he may direct the property to be sold as aforesaid, and the proceeds to be paid into the district treasury, there to be held until the right thereto be decided by a Court of competent jurisdiction.

## PART VII.

### OF DRAINAGE.

55. Whenever it appears to the Local Government that injury to any land or the public health or public convenience has arisen or may arise from the obstruction of any river, stream or drainage-channel, such Government may, by notification published in the official Gazette, prohibit, within limits to be defined in such notification, the formation of any obstruction, or may, within such limits, order the removal or other modification of such obstruction.

Thereupon so much of the said river, stream or drainage-channel as is comprised within such limits, shall be held to be a drainage-work as defined in section three.

56. The Divisional Canal Officer, or other person authorized by the Local Government in that behalf, may, after such publication, issue an order to the person causing or having control over any such obstruction to remove or modify the same within a time to be fixed in the order.

If, within the time so fixed, such person does not comply with the order, the said Canal Officer may himself remove or modify the obstruction; and if the person to whom the order was issued does not, when called upon, pay the expenses involved in such removal or modification, such expenses shall be recoverable by the Collector from him or his representative in interest as an arrear of land-revenue.

57. Whenever it appears to the Local Government that any drainage-works are necessary for the improvement of any lands, or for the proper cultivation or irrigation thereof,

or that protection from floods or other accumulations of water, or from erosion by a river, is required for any lands,

the Local Government may cause a scheme for such drainage-works to be drawn up and published, together with an estimate of its cost and a statement of the proportion of such cost which the Government proposes to defray, and a schedule of the lands which it is proposed to make chargeable in respect of the scheme.

58. The persons authorized by the Local Government to draw up such scheme may exercise all or any of the powers conferred on Canal Officers by section fourteen.

59. An annual rate, in respect of such scheme, may be charged, according to rules to be made by the Local Government, on the owners of all lands which shall, in the manner prescribed by such rules, be determined to be so chargeable.

Such rate shall be fixed as nearly as possible so as not to exceed either of the following limits:

(1.) Six per cent. per annum on the first cost of the said works, adding thereto the estimated yearly cost of the maintenance and supervision of the same, and deducting therefrom the estimated income, if any, derived from the works, excluding the said rate:

(2.) In the case of agricultural land, the sum which, under the rules then in force for the assessment of land-revenue, might be assessed on such land on account of the increase of the annual value or produce thereof caused by the drainage-work.

Such rate may be varied from time to time, within such maximum, by the Local Government.

So far as any defect to be remedied is due to any canal, water-course, road or other work or obstruction, constructed or caused by the Local Government or by any person, a proportionate share of the cost of the drainage-works required for the remedy of the said defect shall be borne by such Government or such person as the case may be.

60. Any such drainage-rate may be collected and recovered in manner provided by sections forty-five, forty-six and forty-seven, for the collection and recovery of water-rates.

Recovery of rate. Disposal of claims to compensation. 61. Whenever, in pursuance of a notification made under section fifty-five, any obstruction is removed or modified,

or whenever any drainage-work is carried out under section fifty-seven, all claims for compensation on account of any loss consequent on the removal or modification of the said obstruction or the construction of such work, may be made before the Collector, and he shall deal with the same in the manner provided in section ten.

62. No such claim shall be entertained after the expiration of one year from the occurrence of the loss complained of, unless the Collector is satisfied that the claimant had sufficient cause for not making the claim within such period.

Limitation of such claims.

## PART VIII.

### OF OBTAINING LABOUR FOR CANALS AND DRAINAGE-WORKS.

63. For the purposes referred to in this Part, the word 'Labourer' includes persons who exercise any handicraft specified in rules to be made in that behalf by the Local Government.

Definition of 'Labourer.'

64. In any district in which a canal or drainage-work is constructed, maintained or projected by Government, the Local Government may, if it thinks fit, direct the Collector

Power to prescribe number of labourers to be supplied by persons benefited by canal.

(a) to ascertain the proprietors, sub-proprietors or farmers, whose villages or estates are or will be, in the judgment of the Collector, benefited by such canal or drainage-work; and

(b) to set down in a list, having due regard to the circumstances of the district and of the several proprietors, sub-proprietors or farmers, the number of labourers which shall be furnished by any of the said persons, jointly or severally, from any such village or estate, for employment on any such canal or drainage-work when required as hereinafter provided.

The Collector may, from time to time, add to or alter such list or any part thereof.

65. Whenever it appears to a Divisional Canal Officer duly authorized by the

Local Government, that, unless some work is immediately executed, such serious damage will happen to any canal or drainage-work as to cause sudden and extensive public injury,

and that the labourers necessary for the proper execution thereof cannot be obtained in the ordinary manner within the time that can be allowed for the execution of such work so as to prevent such injury,

the said officer may require any person named in such list to furnish as many labourers (not exceeding the number which, according to the said list, he is liable to supply) as to the said officer seem necessary for the immediate execution of such work.

Every requisition so made shall be in writing, and shall state

(a) the nature and locality of the work to be done,

(b) the number of labourers to be supplied by the person upon whom the requisition is made, and

(c) the approximate time for which, and the day on which, the labourers will be required;

and a copy thereof shall be immediately sent to the Superintending Canal Officer for the information of the Local Government.

The Local Government shall fix, and may from time to time alter, the rates to be paid to any such labourers : provided that such rates shall exceed the highest rates for the time being paid in the neighbourhood for similar work. In the case of every such labourer, the payment shall continue for the whole period during which he is, in consequence of the provisions of this Part, prevented from following his ordinary occupation.

The Local Government may, with the previous sanction of the Governor-General in Council, direct that the provisions of this Part shall apply, either permanently or temporarily (as the case may be), to any district or part of a district for the purpose of effecting necessary annual silt-clearances, or to prevent the proper operation of a canal or drainage-work being stopped or so much interfered with as to stop the established course of irrigation or drainage.

66. When any requisition has been made on any person named in the said list, every labourer ordinarily resident within the village or estate of such person shall be liable to supply, and to continue to supply, his labour, for the purposes aforesaid.

Liability of labourers under requisition.

## PART IX.

### OF JURISDICTION.

67. Except where herein otherwise provided, all claims against Government in respect of anything done under this Act may be tried by the Civil Courts ; but no such Court shall in any case pass an order as to the supply of canal-water to any crop sown or growing at the time of such order.

68. Whenever a difference arises between two or more persons in regard to their mutual rights or liabilities in respect of the use, construction or maintenance of a water-course, any such person may apply in writing to the Divisional Canal Officer, stating the matter in dispute. Such officer shall thereupon give notice to the other persons interested that, on a day to be named in such notice, he will proceed to enquire into the said matter. And, after such enquiry, he shall pass his order thereon, unless he transfers (as he is hereby empowered to do) the matter to the Collector, who shall thereupon enquire into and pass his order on the said matter.

Such order shall be final as to the use or distribution of water for any crop sown or growing at the time when such order is made, and shall thereafter remain in force until set aside by the decree of a Civil Court.

69. Any officer empowered under this Act to conduct any enquiry may exercise all such powers connected with the summoning and examining of witnesses as are conferred on Civil Courts by the Code of Civil Procedure ; and every such enquiry shall be deemed a judicial proceeding.

Settlement of differences as to mutual rights and liabilities of persons interested in water-course.

Power to summon and examine witnesses.

## PART X.

### OF OFFENCES AND PENALTIES.

70. Whoever, without proper authority and voluntarily, does any of the acts following, that is to say,—

- (1) damages, alters, enlarges or obstructs any canal or drainage-work ;
- (2) interferes with, increases or diminishes the supply of water in, or the flow of water from, through, over or under, any canal or drainage-work ;
- (3) interferes with or alters the flow of water in any river or stream, so as to endanger, damage or render less useful any canal or drainage-work ;
- (4) being responsible for the maintenance of a water-course, or using a water-course, neglects to take proper precautions for the prevention of waste of the water thereof, or interferes with the authorized distribution of the water therefrom, or uses such water in an unauthorized manner ;

Offences under Act.

(5) corrupts or fouls the water of any canal so as to render it less fit for the purposes for which it is ordinarily used ;

(6) causes any vessel to enter or navigate any canal contrary to the rules for the time being prescribed by the Local Government for entering or navigating such canal ;

(7) while navigating on any canal, neglects to take proper precautions for the safety of the canal and of vessels thereon ;

(8) being liable to furnish labourers under Part VIII of this Act, fails, without reasonable cause, to supply or to assist in supplying the labourers required of him ;

(9) being a labourer liable to supply his labour under Part VIII of this Act, neglects, without reasonable cause, so to supply, and to continue to supply, his labour ;

(10) destroys or moves any level-mark or water-gauge fixed by the authority of a public servant ;

(11) passes, or causes animals or vehicles to pass, on or across any of the works, banks or channels of a canal or drainage-work contrary to rules made under this Act, after he has been desired to desist therefrom ;

(12) violates any rule made under this Act, for breach whereof a penalty may be incurred,

shall be liable, on conviction before a Magistrate of such class as the Local Government directs in this behalf, to a fine not exceeding fifty rupees, or to imprisonment not exceeding one month,

Penalty.

or to both.

71. Nothing herein contained shall prevent any person from being prosecuted under any other law for any offence punishable under this Act :

Saving of prosecution under other laws. Provided that no person shall be punished twice for the same offence.

72. Whenever any person is fined for an offence under this Act, the Magistrate

Compensation to person injured. may direct that the whole or any part of such fine may be paid by way of compensation to the person injured by such offence.

73. Any person in charge of or employed upon any canal or drainage-work, may

Power to arrest without warrant. remove from the lands or buildings belonging thereto, or may take into custody without a warrant and take forthwith before a Magistrate or to the nearest police-station, to be dealt with according to law, any person who, within his view, commits any of the following offences :

(1) wilfully damages or obstructs any canal or drainage-work ;

(2) without proper authority interferes with the supply or flow of water in or from any canal or drainage-work, or in any river or stream, so as to endanger, damage or render less useful any canal or drainage-work.

74. In this Part the word 'Canal' shall (unless there be something repugnant in the subject or context) be deemed to include also all lands

Definition of 'Canal.' occupied by Government for the purposes of canals, and all buildings, machinery, fences, gates and other erections, trees, crops, plantations or other produce, occupied by or belonging to Government upon such lands.

## PART XI.

### OF SUBSIDIARY RULES.

75. The Local Government may, from time to time, with the previous

Power to make, alter and cancel rules. sanction of the Governor-General in Council, make rules to regulate the following matters :—

(1) the proceedings of any officer who, under any provision of this Act, is required or empowered to take action in any matter ;

(2) the cases in which, and the officers to whom, and the conditions subject to which, orders and decisions given under any provision of this Act, and not expressly provided for as regards appeal, shall be appealable ;

(3) the persons by whom, the time, place or manner at or in which, anything for the doing of which provision is made in this Act, shall be done ;

(4) the amount of any charge made under this Act ;

(5) and generally to carry out the provisions of this Act.

The Local Government may, from time to time, with the like sanction, alter or cancel any rules so made.

Publication of rules.

Such rules, alterations and cancellments shall be published in the local official Gazette, and shall thereupon have the force of law.

### SCHEDULE.

(See section 2.)

Number and Year.		Title.	Extent of Repeal.
VII of 1845	...	An Act for regulating the Levy of Water-rent, Tolls, and dues on certain Canals for Irrigation and Navigation, constructed by Government in the North-Western Provinces, and for the protection of the said Canals from Injury.	The whole.
XIV of 1863	...	An Act to amend Act X of 1859 (to amend the law relating to the recovery of rent in the Presidency of Fort William in Bengal).	Section fifteen.
XII of 1866	...	An Act to provide for the compulsory taking of rights to form and maintain private water-courses from public works of irrigation.	The whole.
XXX of 1871	...	An Act to regulate Irrigation, Navigation and Drainage in the Panjáb.	The whole.

## ACT IX OF 1873.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 4th March 1873.)

*An Act to prolong the law relating to Appeals and Reviews of Judgment in the Panjáb.*

WHEREAS the law relating to appeals and reviews of judgment in the Courts established in the Panjáb has been amended by an Act of which the second section provides that it shall continue in force to the thirtieth day of April 1873 : And whereas it is expedient to repeal that Act and to reenact it without prescribing any period for its continuance ; It is hereby enacted as follows :—

Short title.

1. This Act may be called "The Panjáb Appeals Act, 1873 :"

Extent.

It extends to the territories for the time being under the government of the Lieutenant-Governor of the Panjáb ;

Commencement.

And it shall come into force at once.

Repeal of Act VII of 1868.

2. Act No. VII of 1868 (*to amend the law relating to Appeals and Reviews of Judgment in the Panjáb*) is repealed.

3. An appeal shall lie from the decrees of the Courts of original and appellate jurisdiction to the Courts authorized under Act No. XIX of 1865 (*The Panjáb Courts Act*) and Act No. IV of 1866 (*The Panjáb Chief Court Act*) to hear appeals, except where such decrees are by law declared final.

4. All appeals falling within the jurisdiction of the Courts established in conformity with the said Acts shall, save as in the said Acts and in this Act Code of Civil Procedure to apply to appeals. is otherwise provided, be regulated by the Code of Civil Procedure.

5. If the decision of a Deputy Commissioner or of a Commissioner passed in regular appeal reverse or modify the decision of the Court of original jurisdiction on a point material to the merits of the case, the Commissioner, where the decision shall have been passed on regular appeal by the Deputy Commissioner, and the Chief Court, where the decision shall have been passed on regular appeal by the Commissioner, may receive a second appeal, if, on a perusal of the grounds of appeal and of copies of the judgments of the Courts below, a further consideration of the case appear to the Commissioner or the Chief Court (as the case may be) requisite for the ends of justice.

6. The memorandum of appeal prepared in the form and containing the particulars mentioned in the Code of Civil Procedure, accompanied by copies of the judgments of the lower Courts, shall be presented in the Court empowered to hear the appeal within the period hereinafter specified, unless the appellant shows sufficient cause to the satisfaction of such Court for not having presented the memorandum of appeal within such period, that is to say, within sixty days if the appeal lie to the Court of a Deputy Commissioner or Commissioner, and within ninety days if the appeal lie to the Chief Court.

The period shall be reckoned from and exclusive of the day on which the judgment and decree appealed against was pronounced, and also exclusive of such time as may be requisite for obtaining a copy of the judgment and decree from which the appeal is made.

7. When a memorandum of appeal, or an application for the admission of a special appeal, has been registered, the Appellate Court may, if it sees fit, after fixing a time for hearing the appellant or his pleader, and hearing him accordingly if he appears at such time, confirm the decision of the lower Court, without sending intimation of the appeal to such Court and without issuing notice to the respondent.

8. The Chief Court of the Panjáb may, whenever it thinks proper to do so, either on the agreement of the parties to that effect or for purposes of justice, remove and try any appeal falling within the jurisdiction of any Court subject to its superintendence.

9. Any person considering himself aggrieved by a decree of a Court of original jurisdiction from which no appeal shall have been preferred to a superior Court,

or by a decree of a District or Divisional Court from which no regular or special appeal shall have been admitted by the Chief Court,

or by a decree of the Chief Court from which either no appeal may have been preferred to Her Majesty in Council, or, an appeal having been preferred, no proceedings in the suit have been transmitted to Her Majesty in Council ;

and who, from the discovery of new matter or evidence which was not within his knowledge, or could not have been adduced by him, at the time when such decree was passed, or from any other good or sufficient reason, may be desirous of obtaining a review of the judgment passed against him,

may apply for a review of judgment by the Civil Court which passed the decree, or by any Court to which the business of the former Court has been transferred.

10. Except as hereinafore provided, the judgments of the Civil Courts established in conformity with the said Acts and with Act No. III of 1868 (*to authorize the Local Government of the Panjáb to invest any person with the powers of an Assistant Commissioner or Tahsildár*) shall not be subject to revision.

## THE INDIAN OATHS ACT, 1873.

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## ACT X OF 1873.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

*(Received the assent of the Governor-General on the 8th April 1873.)**An Act to consolidate the law relating to Judicial Oaths, and for other purposes.*

WHEREAS it is expedient to consolidate the law relating to judicial oaths, affirmations and declarations, and to repeal the law relating to official oaths, affirmations and declarations ; It is hereby enacted as follows :—

*1.—Preliminary.*

Short title.

1. This Act may be called "The Indian Oaths Act, 1873 :"

It extends to the whole of British India, and, so far as regards subjects of Her Majesty, to the territories of Native Princes and States in alliance with Her Majesty ;

Local extent.

Commencement.

And it shall come into force on the first day of May 1873.

Repeal of enactments.

2. The enactments specified in the schedule hereto annexed are repealed to the extent mentioned in the third column thereof.

3. Nothing herein contained applies to proceedings before Courts Martial, or to oaths, affirmations or declarations prescribed by any law which, under the provisions of the Indian Councils' Act, 1861, the Governor-General in Council has not power to repeal.

Saving of certain oaths and affirmations.

*II.—Authority to administer Oaths and Affirmations.*

4. The following Courts and persons are authorized to administer, by themselves or by an officer empowered by them in this behalf, oaths and affirmations in discharge of the duties or in exercise of the powers imposed or conferred upon them respectively by law :—

(a.) all Courts and persons having by law or consent of parties authority to receive evidence ;

(b.) the Commanding Officer of any military station occupied by troops in the service of Her Majesty : provided

(1) that the oath or affirmation be administered within the limits of the station, and

(2) that the oath or affirmation be such as a Justice of the Peace is competent to administer in British India.

*III.—Persons by whom Oaths or Affirmations must be made.*

Oaths or affirmations to be made by—

5. Oaths or affirmations shall be made by the following persons :—

(a.) all witnesses, that is to say, all persons who may lawfully be examined, or give, or be required to give, evidence by or before any Court or person having by law or consent of parties authority to examine such persons or to receive evidence :

(b.) interpreters of questions put to, and evidence given by, witnesses, and

(c.) jurors.

Nothing herein contained shall render it lawful to administer, in a criminal proceeding, an oath or affirmation to the accused person, or necessary to administer to the official interpreter of any Court, after he has entered on the execution of the duties of his office, an oath or affirmation that he will faithfully discharge those duties.

Affirmation by Natives or by persons objecting to oaths.

6. Where the witness, interpreter or juror is a Hindoo or Mahomedan,

or has an objection to making an oath, he shall, instead of making an oath, make an affirmation.

In every other case the witness, interpreter or juror shall make an oath.

*IV.—Forms of Oaths and Affirmations.*

7. All oaths and affirmations made under section five shall be administered according to such forms as the High Court may from time to time prescribe.

And until any such forms are prescribed by the High Court, such oaths and affirmations shall be administered according to the forms now in use.

*Explanation.*—As regards oaths and affirmations administered in the Court of the Recorder of Rangoon and the Court of Small Causes of Rangoon, the Recorder of Rangoon shall be deemed to be the High Court within the meaning of this section.

8. If any party to, or witness in, any judicial proceeding offers to give evidence on oath or solemn affirmation in any form common amongst, or held binding by, persons of the race or persuasion to which he belongs, and not repugnant to justice or decency, and not purporting to affect any third person, the Court may, if it thinks fit, notwithstanding anything hereinbefore contained, tender such oath or affirmation to him.

9. If any party to any judicial proceeding offers to be bound by any such oath or solemn affirmation as is mentioned in section eight, if such oath or affirmation is made by the other party to, or by any witness in, such proceeding, the Court may, if it thinks fit, ask such party or witness, or cause him to be asked, whether or not he will make the oath or affirmation :

Provided that no party or witness shall be compelled to attend personally in Court solely for the purpose of answering such question.



10. If such party or witness agrees to make such oath or affirmation, the Court may proceed to administer it, or if it is of such a nature that it may be more conveniently made out of Court, the Court may issue a Commission to any person to administer it, and authorize him to take the evidence of the person to be sworn or affirmed and return it to the Court.

Evidence conclusive as against person offering to be bound.

11. The evidence so given shall, as against the person who offered to be bound as aforesaid, be conclusive proof of the matter stated.

12. If the party or witness refuses to make the oath or solemn affirmation referred to in section eight, he shall not be compelled to make it, but the Court shall record, as part of the proceedings, the nature of the oath or affirmation proposed, the facts that he was asked whether he would make it, and that he refused it, together with any reason which he may assign for his refusal.

#### V.—Miscellaneous.

13. No omission to take any oath or make any affirmation, no substitution of any one for any other of them, and no irregularity whatever in the form in which any one of them is administered, shall invalidate any proceeding or render inadmissible any evidence whatever, in or in respect of which such omission, substitution or irregularity took place, or shall affect the obligation of a witness to state the truth.

Proceedings and evidence not invalidated by omission of oath or irregularity.

14. Every person giving evidence on any subject before any Court or person hereby authorized to administer oaths and affirmations shall be bound to state the truth on such subject.

Persons giving evidence bound to state the truth.

15. The Indian Penal Code, sections 178 and 181, shall be construed as if, after the word "oath," the words "or affirmation" were inserted.

Amendment of Penal Code, sections 178 and 181.

16. Subject to the provisions of sections three and five, no person appointed to any office shall, before entering on the execution of the duties of his office, be required to make any oath, or to make or subscribe any affirmation or declaration whatever.

Official oaths abolished.

#### SCHEDULE.

(See section 2.)

#### PART I.—STATUTES.

Year and Chapter.	Title.	Extent of Repeal.
9 Geo. IV, c. 74 ...	An Act for improving the Administration of Criminal Justice in the <i>East Indies</i> .	Sections thirty-six and thirty-seven.
3 & 4 Wm. IV, c. 49 ...	An Act to allow Quakers and Moravians to make affirmation in all cases where an Oath is or shall be required.	The whole Act, so far as it applies to British India.
3 & 4 Wm. IV, c. 82 ...	An Act to allow the People called Separatists to make a solemn Affirmation and Declaration instead of an Oath.	The whole Act, so far as it applies to British India.
5 & 6 Wm. IV, c. 62 ...	An Act to repeal an Act of the present Session of Parliament, intituled "An Act for the more effectual Abolition of Oaths and Affirmations taken and made in various Departments of the	The whole Act, so far as it applies to British India.

SCHEDULE.—(Continued.)

PART I.—STATUTES.—(Concluded.)

Year and Chapter.	Title.	Extent of Repeal.
	State, and to substitute Declarations in lieu thereof; and for the more entire Suppression of voluntary and extrajudicial Oaths and Affidavits;" and to make other Provisions for the Abolition of unnecessary Oaths.	
1 & 2 Vic., c. 77 ...	An Act for permitting Affirmation to be made instead of an Oath in certain cases.	The whole Act, so far as it applies to British India.

PART II.—ACTS.

Number and Year.	Subject or Title.	Extent of Repeal.
IX of 1836 ...	Commanding Officer's power to administer Oaths.	The whole.
XXI of 1837 ...	Office Oaths and Declarations ...	So much as has not been repealed.
V of 1840 ...	An Act concerning the Oaths and Declarations of Hindoos and Mahomedans.	So much as has not been repealed.
XV of 1843 ...	An Act for the more extensive employment of Uncovenanted Agency in the Judicial Department.	Section two.
XV of 1852 ...	An Act to amend the Law of Evidence.	Section twelve.
XII of 1856 ...	An Act to amend the Law respecting the employment of Ameens by the Civil Courts in the Presidency of Fort William.	Section four.
VII of 1857 ...	An Act for the more extensive employment of Uncovenanted Agency in the Revenue and Judicial Departments in the Presidency of Fort St. George.	Section two.
XII of 1859 ...	An Act to make better provision for the trial of Pilots at the Presidency of Fort William in Bengal for breach of duty.	Sections twelve and fifteen.
XVIII of 1863 ...	An Act to make provision for the speedy and efficient disposal of the business now pending in the Office of the Master of the High Court of Judicature at Fort William in Bengal, and to provide for the abolition of the Oaths now administered to Hindoos and Mahomedans in the said Court,	Section nine.

## SCHEDULE.—(Continued.)

## PART II.—Acts.—(Concluded.)

Number and Year.	Subject or Title.	Extent of Repeal.
	and to amend the Code of Civil Procedure in respect of process issued out of the said Court in the exercise of its Original Civil Jurisdiction.	
IV of 1866 ... ..	An Act to amend the constitution of the Chief Court of Judicature in the Punjab and its Dependencies.	Section five.
II of 1869 ... ..	An Act for the appointment of Justices of the Peace.	Sections seven and eight.
IV of 1871 ... ..	An Act to consolidate and amend the Laws relating to Coroners.	Section seven, and, in section thirty-eight, the words "and such deputy shall take and subscribe, before one of the Judges of the High Court, an oath that he will faithfully discharge the duties of his office."
VI of 1871 ... ..	An Act to consolidate and amend the law relating to the District and Subordinate Civil Courts in Bengal.	Section thirteen.
VI of 1872 ... ..	An Act to amend the Law relating to Oaths and Affirmations.	The whole.
XVIII of 1872 ... ..	An Act to amend the Indian Evidence Act, 1872.	Section twelve.
Bombay Act VI of 1866 ... ..	An Act to amend the Law relating to certain Declarations of Office in the Bombay Presidency.	The whole.

## PART III.—REGULATIONS.

Number and Year.	Subject or Title.	Extent of Repeal.
Bengal Regulation IV of 1793.	A Regulation for receiving, trying, and deciding Suits or Complaints declared cognizable in the Courts of Dewanny Adawlut established in the several Zillahs, and in the Cities of Patna, Dacca, and Moorsshedabad.	So much of section six as has not been repealed.
Bengal Regulation III of 1803.	A Regulation for receiving, trying, and deciding Suits or Complaints, declared cognizable in the Courts of Adawlut established in the several Zillahs in the Provinces ceded by the Nawaub Vizier to the Honourable the English East India Company.	So much of section seven as has not been repealed, and section eight.

## SCHEDULE.—(Continued.)

## PART III.—REGULATIONS.—(Continued.)

Number and Year.	Subject or Title.	Extent of Repeal.
Bengal Regulation IX of 1833.	A Regulation to modify certain Portions of Regulations VII of 1822, and Regulation IV of 1828; to provide for the more speedy and satisfactory Decision of Judicial Questions cognizable by Officers of Revenue employed in making Settlements under the above Regulations; for enforcing the Production of the Village Accounts; for the more extensive Employment of Native Agency in the Revenue Department; and to declare the Intent of Section V, Regulation VII of 1822, touching Claims to Malikana.	Section nineteen.
Madras Regulation I of 1803	A Regulation for defining the Duties of the Board of Revenue, and for determining the Extent of the Powers vested in the Board of Revenue.	Sections two and three.
Madras Regulation II of 1803	A Regulation for describing and determining the Conduct to be observed by Collectors in certain cases.	Sections three and four.
Madras Regulation XIV of 1816.	A Regulation for amending and modifying the Rules which have been passed regarding the Office of Vakeel or Native Pleader in the Courts of Civil Judicature.	Section five.
Bombay Regulation VI of 1799.*	A Regulation for enacting the existing Rules for the Collection of the Bombay Customs.	Section two, clause two, from and including the words "Previous to" down to the end of that clause.
Bombay Regulation II of 1827.	A Regulation for defining the constitution of Courts of Civil Justice, and the powers and duties of the Judges and officers thereof.	Sections four and fifteen. In section eleven, clause one, the words "who previously to entering on the duties of their offices shall take and subscribe in open Court the oath contained in Appendix B." Appendix B.
Bombay Regulation XII of 1827.	A Regulation for the establishment of a system of Police throughout the Zillahs subordinate to Bombay, for providing Rules for its Administration, and for defining the Duties and Powers of all Police Authorities and Servants.	So much of section three, clause five, as has not been repealed.

## SCHEDULE.—(Concluded.)

## PART III.—REGULATIONS.—(Concluded.)

Number and Year.	Subject or Title.	Extent of Repeal.
Bombay Regulation XIII of 1827.	A Regulation for defining the Constitution of Courts of Criminal Justice, and the Functions and Proceedings thereof.	So much of section thirty-six, clause two, as has not been repealed.
Bombay Regulation XVI of 1827.	A Regulation defining the Duties of the Collector, and his Powers in regard to Subordinate Revenue Officers, and providing Rules for the guidance of Land Revenue Officers in general, throughout the Territories subordinate to Bombay.	Section three, and so much of section five as relates to taking oaths.
Bombay Regulation XIX of 1827.	A Regulation for the Presidency, prescribing Rules for the Assessment and Collection of the Land Revenue, and for collecting Taxes on Shops and Stalls, on beating the Battakee or making Proclamation by the Crier, on Country Music, on Wedding Sheds and Places of Public Amusement, on Houses, on Carriages, and on Horses; for causing Individuals who may sell or transfer Houses or Tenements subject to quit or ground rents to give Notice of the same to the Collector; and also for levying Fees in the Court of Petty Sessions and Police Offices.	Section one, clause two; and section six from and including the words "and shall" down to the end. Appendix A.
Bombay Regulation XVIII of 1830.	A Regulation providing for the appointment of a Joint Judge within the Zillah of Poona.	Section two.

THE CENTRAL PROVINCES MUNICIPAL ACT, 1873.

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ACT XI OF 1873.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 24th July 1873.)

*An Act to provide for the appointment of Municipal Committees in the Central Provinces, and for other purposes.*

WHEREAS it is expedient to provide for the appointment of Municipal Committees in towns in the Central Provinces, and for police, conservancy, local improvements, and education in such towns, and for the levying of rates and taxes therein; It is hereby enacted as follows:—

Preamble.

*I.—Preliminary.*

Short title.

1. This Act may be called "The Central Provinces Municipal Act, 1873."

Local extent.

Commencement.

Repeal of Acts.

It extends only to the territories for the time being under the administration of the Chief Commissioner of the Central Provinces ;  
 And it shall come into force on the passing thereof.

2. Act No. XV of 1867 (to make better provision for the appointment of Municipal Committees in the Panjáb, and for other purposes), Act No. XXVI of 1850 (to enable improvements to be made in towns), Act No. XVIII of 1864 (to provide for the appointment of a Municipal Committee for the city of Lucknow), and Act No. XXII of 1865 (to amend Act No. XVIII of 1864) are repealed so far as they affect the Central Provinces.

Existing extensions and appointments.

But all extensions and appointments made, and all limits defined, under any of the said Acts, shall be deemed to be respectively made and defined under this Act. And an extension of any particular provision of Act No. XV of 1867 shall be deemed to be an extension of the corresponding provision of this Act.

Existing assessments and bye-laws.

And all assessments, bye-laws, rules and regulations of any kind, relating to matters provided for by this Act, which may heretofore have been made or approved by the Chief Commissioner, shall be deemed to have been made under this Act.

Former proceedings.

Interpretation-clause.

"Chief Commissioner."

"Committee."

Power to extend Act to towns.

Objection to such extension.

Procedure thereon.

3. In this Act—  
 "Chief Commissioner" means Chief Commissioner of the Central Provinces; and  
 "Committee" means a Municipal Committee under this Act.

4. The Chief Commissioner may, by notification published in the *Central Provinces Gazette*, declare his intention to extend this Act, or any of its provisions, to any town in the said territories.

Any inhabitant of such town objecting to such extension may, within six weeks from the date of the said publication, send his objection in writing to the Secretary to the Chief Commissioner, and the Chief Commissioner shall take such objection into consideration.

When six weeks from the said publication have expired, the Chief Commissioner, if no such objections have been sent as aforesaid, or (where such objections have been so sent in) if, in his opinion, they are insufficient, may, by like notification, effect the proposed extension.

Power to define limits of towns to which Act extends.

5. For the purposes of this Act, the Chief Commissioner may, from time to time, by notification in the *Central Provinces Gazette*, declare what shall be deemed to be a town for the purposes of this Act, and define the limits of any town to which this Act has been extended.

*II.—Appointment, Duties and Powers of Committees.*

6. In every town to which this Act is extended, the Chief Commissioner shall appoint, or cause to be appointed, a Committee consisting of not less than five members.

Such members may be appointed as the Chief Commissioner from time to time directs, either *ex-officio*, or by nomination, or by election, or some by one and some by any other of such methods :

Provided that (except with the approval of the Governor-General in Council) not less than two-fifths of the members of a Committee shall be persons other than salaried officers of Government.

The Chief Commissioner may—

(a) from time to time remove any of the members of any Committee, add to their number, and fill up vacancies occurring among them ;

(b) determine the time and manner of the election of those members whom he may direct to be appointed by election, and the persons by whom they shall be elected, and generally make such rules as he thinks fit for regulating such election ;

(e) appoint the President and Vice-President, or either of them, of any Committee, or authorise any Committee to appoint, by election from their number, such President, or Vice-President, or both.

No appointment under this section, other than the appointment by election of a Vice-President, shall be valid unless and until it is notified in the *Central Provinces Gazette*.

Power to levy rates or make assessments.

7. Subject to any general rules or special orders which the Governor-General in Council may from time to time make in this behalf,

every Committee intending to impose taxes for the purposes of this Act shall, from time to time, give public notice of such intention, and shall in such notice define the persons or property within the town to be taxed for the purposes of this Act, and the amount or rate of the taxes to be imposed hereunder.

Any inhabitant of such town objecting to such notice may, within a fortnight from the date of the said notice, send his objection in writing to the President of the Committee, and the Committee shall take such objection into consideration and report their opinion thereon to the Chief Commissioner.

When a fortnight from the date of the said notice has expired, if no such objections have been sent as aforesaid, or (where such objections have been sent in) if, in the opinion of the Committee, they are insufficient, the Committee may, with the previous sanction of the Chief Commissioner, to be notified in the *Central Provinces Gazette*, define the persons or property and the amount or rate of the taxes aforesaid, and may then impose such taxes accordingly.

Power to make rules for collection and application of rates.

8. The Chief Commissioner may from time to time make rules—

as to the persons by whom, and the manner in which, any assessment of taxes under this Act shall be confirmed,

and for the collection of such taxes ;

and for the safety and due application of them when collected ;

and for the rendering and publishing of such estimates and accounts relating to the expenditure of the Municipal Funds, in such form as he may think fit.

No tax shall be collected under this Act, until the assessment thereof has been confirmed by the persons and in manner for the time being prescribed by such rules.

Recovery of rates.

9. Rates and arrears of rates imposed under this Act may be recovered as if they were arrears of land-revenue.

10. All sums received by the Committee of any town to which this Act extends,

Municipal Fund.

and all fines levied under this Act, shall constitute a fund, which shall be called the Municipal Fund of such town, and shall, together with all property which may become vested in such Committee, be under their control, and shall be applied by them as trustees for the purposes of this Act.

The Municipal Fund shall, as a rule, be kept in the Government Treasury of the District or in the Bank (if any) to which the Government Treasury business shall have been made over.

But in places where there is no such Treasury or Bank, the said fund may, with the previous consent of the Local Government, be deposited with any banker, or person acting as a banker, who has given such security for the safe custody and repayment on demand of the fund so deposited as the Local Government in each case thinks sufficient.

No disbursement of the Municipal Fund or any part thereof shall be made except under the signature of the President or Vice-President and one other member of the Committee.

Duties and powers of Committees.

11. Every Committee, so far as the Municipal Fund at their disposal permits, shall, in the first place

(a) make provision out of such fund for a police establishment in manner hereinafter mentioned ;

and shall then

(b) keep the public streets, roads, drains, tanks and water-courses of the town for which they are appointed, clean and repaired ;

and may then

(c) do all acts and things necessary for the construction, repair and maintenance of local public works of general utility ;



(d) make provisions, by the establishment of new schools or the aiding of already existing schools or otherwise, for the promotion of education ;

(e) make provision for promoting the public health, safety, comfort and convenience.

12. Every Committee shall set apart out of the Municipal Fund such sum as the Chief Commissioner from time to time requires for the maintenance of the police establishment in the town for which the Committee are appointed.

Provision for police.

Power to make bye-laws as to business and officiating—

13. Every Committee may make bye-laws for regulating—  
the time and place of their meeting ;  
the conduct of their business ;  
the division of duties among the members of the Committee ;  
the duties, salaries, appointment, suspension and removal of the officers and servants of the Committee ;  
and other similar matters.

Power to make rules.

14. Any Committee may make rules—  
(a) for declaring what acts or omissions within the limits of the town shall be considered to be public or common nuisances under the Indian Penal Code, or under Act No. V of 1861 (*for the regulation of Police*) ;

(b) for defining the cases, manner and times in and at which the officers of the Committee may enter upon private property for the detection and abatement of nuisances ;

(c) for securing a proper registration of births and deaths ;

(d) and for carrying out all or any of the purposes of this Act.

The Committee may, from time to time, repeal, alter or add to any rules made under this section.

Rules to be confirmed and published.

15. No rule, and no alteration or repeal of or addition to a rule, shall have effect until it has been confirmed by the Chief Commissioner.

All rules made under this Act, and all bye-laws made under section thirteen, and all alterations and repeals of and additions to such rules and bye-laws shall, before coming into force, be published for such length of time, and in such manner, as the Chief Commissioner from time to time directs.

16. The officers of the Committee shall have power to enter upon private property, for the detection and abatement of nuisances, when the Committee have, under section fourteen, clause (b), made rules regulating the exercise of such power.

Power to enter on private property.

17. The Chief Commissioner may, by order, suspend or limit all or any of the powers of any Committee, and may also cancel any of their proceedings, rules or bye-laws, and remit or reduce any tax which they have imposed.

Power to suspend or limit power of Committees.

### III.—Suits by and against Committees.

Suits by and against Committees.

18. Every Committee shall sue and be sued in the name of their President.

Every contract made on behalf of any Committee in respect of any sum or property exceeding twenty rupees in amount or value, shall be in writing, and shall be signed by the President or Vice-President (if any) and at least two other members of the Committee.

No contract, unless so executed, shall be binding on the Committee on whose behalf it is made.

No member of a Committee shall be personally liable for any contract made or expense incurred by or on behalf of the Committee ; but the funds from time to time in the hands of the Committee shall be liable for, and chargeable with, contracts duly made as aforesaid.

Liability of members of Committees.

Every member of a Committee shall be liable for any misapplication of money entrusted to the Committee, to which he has been a party, or which happens through, or is facilitated by, his neglect of his duty ;

and he shall be liable to be sued for the same in such Court as the Chief Commissioner directs as for money due to the Secretary of State for India in Council.

19. No suit shall be brought against a Committee or any of their officers, or any person acting under their direction, for anything done, or purporting to be done, under this Act, until the expiration of one month next after notice in writing has been delivered or left at the office of the Committee, or at the place of abode of such person, stating the cause of suit and the name and place of abode of the intended plaintiff.

Unless such notice be proved, the Court shall find for the defendant.

Every such suit shall be commenced within three months next after the accrual of the right to sue, and not afterwards.

And if any person to whom any such notice of suit is given shall, before the suit is brought, tender sufficient amends to the plaintiff, such plaintiff shall not recover.

#### IV.—Penalties.

20. No member or servant of a Committee shall be interested, directly or indirectly, in any contract made with the Committee, and if any such person be so interested, he shall thereby become incapable of continuing in office or in employment as such member or servant, and shall be liable to a fine of five hundred rupees :

Provided that no person, by being a shareholder in, or member of, any incorporated or registered Company, shall be disqualified from acting as a member or servant of a Committee by reason of any contract entered into between such Company and the Committee.

Nevertheless it shall not be lawful for such shareholder or member to act as a member of the Committee in any matter relating to any contract entered into between the Committee and such Company.

21. Whoever infringes any rule made and confirmed as directed in this Act, shall be liable to a fine not exceeding fifty rupees, and, in the case of a continuing infringement, to a fine not exceeding five rupees for every day after notice from the Committee of such infringement.

In default of payment of any fine imposed under this section, the defaulter shall be liable to simple imprisonment for a term not exceeding eight days.

22. Prosecutions under this Act for infringements of rules may be instituted before any Magistrate by the Committee, or by any person authorized by the Committee in this behalf.

Recovery of fines.

23. Fines imposed under this Act may be recovered in manner provided by the Code of Criminal Procedure.

## ACT XII OF 1873.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 7th August 1873.)

### *An Act for the Repeal of certain Obsolete Enactments.*

WHEREAS it is expedient that the enactments mentioned in the schedule to this Act, which have ceased to be in force otherwise than by express and specific repeal, or have by lapse of time and change of circumstances become unnecessary, or which merely repeal prior enactments, should be expressly and specifically repealed ; It is hereby enacted as follows :—

Enactments in schedule repealed.

1. The enactments described in the schedule to this Act are hereby repealed to the extent mentioned in the third column of the same schedule :

Provided that the repeal by this Act of any enactment shall not affect any Statute, Act or Regulation in which such enactment has been applied, incorporated or referred to :

And this Act shall not affect the validity or invalidity of any thing already done or suffered, or any indemnity already granted, or any right or title already acquired or accrued, or any remedy or proceeding in respect thereof, or the proof of any past act or thing.

Nor shall this Act affect any principle or rule of law, or established jurisdiction, form or course of pleading, practice or procedure, or existing usage, custom, privilege, restriction, exemption, office or appointment, notwithstanding that the same respectively may have been in any manner affirmed, recognised, or derived, by, in, or from any enactment hereby repealed :

Nor shall this Act provide or restore any jurisdiction, office, custom, privilege, restriction, exemption, usage or practice not now existing or in force.

Short title.

Commencement.

2. This Act may be cited as "The Repealing Act, 1873 ;" and it shall come into force on the passing thereof.

### SCHEDULE.

#### PART I.—STATUTES.

Year and Chapter.	Subject, Title or abbreviated Title.	Extent of Repeal.
7 Jac. I, cap. 5* ...	Suits against Justices of the Peace and other Officers.	The whole Act, so far as it applies to British India.
21 Jac. I, cap. 12 ...	Making perpetual 7 Jac. I, cap. 5.	The whole Act, so far as it applies to British India.
29 Car. II, cap. 3 ...	An Act for prevention of Frauds and Perjuries.	Sections thirteen, fourteen, fifteen, sixteen, seventeen, twenty-two, twenty-three and twenty-four, so far as they apply to British India.†
8 & 9 Wm. III, cap. 11.	An Act for the better preventing frivolous and vexatious suits.	The whole Act, so far as it applies to British India.
24 Geo. II, cap. 44 ...	An Act for the rendering Justices of the Peace more safe in the Execution of their Office ; &c.	The whole Act, so far as it applies to British India.
33 Geo. III, cap. 52 ...	An Act for continuing in the East India Company, for a further Term, the Possession, &c.	Section twenty-eight.
42 Geo. III, cap. 85 ...	An Act for the Trying and Punishing in Great Britain Persons holding public employments, for Offences committed abroad, &c.	Section six, so far as it relates to suits in British India.
53 Geo. III, cap. 155 ...	An Act for continuing in the East India Company, for a further Term, the Possession, &c.	Sections ninety-seven and one hundred and twenty-one, and section one hundred and twenty-three, so far as it relates to suits in British India.
2 & 3 Vic., cap. 34 ...	An Act to confirm certain Rules and Orders of the Supreme Courts of Judicature at Fort William and Madras ; &c.	The whole.
3 & 4 Vic., cap. 37 ...	An Act to consolidate and amend the Laws for punishing Mutiny, &c.	Sections forty-three to forty-seven (both inclusive).

\* Entitled as of the 7th & 8th Jan. I, in *The Statutes: Revised Edition*, London, 1870.

† The reference is to the sections as printed in *The Statutes: Revised Edition*, London, 1870.

SCHEDULE.—(Continued.)

PART II.—ACTS OF THE GOVERNOR-GENERAL IN COUNCIL.

Number and Year.	Subject, Title or abbreviated Title.	Extent of Repeal.
VIII of 1836 ...	Bengal—Personal disabilities and privileges.	So much as has not been repealed.
XXII of 1836 ...	Eastern Canal Tolls ...	The whole.
XXV of 1836 ...	Warehousing Ports ...	So much as has not been repealed.
XVI of 1837 ...	Custom House ...	So much as has not been repealed.
XXV of 1837 ...	Bengal Judiciary System ...	So much as has not been repealed.
XXXII of 1838 ...	Bengal—Justices of the Peace ...	So much as has not been repealed.
VII of 1839 ...	Madras Tahsildars ...	The first ten words of section two.
I of 1841 ...	Pattidari Estates ...	The whole Act, so far as it applies, or is applicable, to the territories subject to the Lieutenant-Governor of the Panjab.
XIII of 1841 ...	An Act for explaining the provisions of Act No. XXV of 1836.	So much as has not been repealed.
XVII of 1841 ...	Appeals in Sadr Courts (Bengal)	So much as has not been repealed.
XXIX of 1841 ...	An Act for amending such parts of the Bengal and Madras Codes as concern the Dismissal of Suits and Appeals for neglecting to proceed in the same.	The whole.
VI of 1843 ...	Jurisdiction and Procedure of the Courts of Amins and Munsifs.	The whole.
VII of 1843 ...	Madras Courts ...	Sections twenty-six, forty-four, and forty-seven.
XV of 1843 ...	Uncovenanted Deputy Magistrates.	So much as has not been repealed.
XXV of 1843 ...	An Act for making the provisions of 5 & 6 Vic., C. 47, section XI, applicable to India.	So much as has not been repealed.
IX of 1844 ...	Suits in the Courts of Principal Sadr Amins and Sadr Amins.	So much as has not been repealed.
I of 1845 ...	Sales of land for arrears of revenue.	The whole Act, so far as it applies to the territories subject to the Lieutenant-Governor of the Panjab.
III of 1845 ...	An Act vesting Courts of Appeal with the discretion to require or dispense with Security for Costs from the Appellant.	The whole.
XIV of 1845 ...	Munsifs (Bengal Presidency) ...	The whole.

## SCHEDULE.—(Continued.)

## PART II.—ACTS OF THE GOVERNOR-GENERAL IN COUNCIL.—(Continued.)

Number and Year.	Subject, Title or abbreviated Title.	Extent of Repeal.
XVI of 1845 ...	Readmission of Appeals after Dismissal under Act XXIX of 1841.	The whole.
XVII of 1845 ...	Enforcement of the Attendance of Witnesses in the Courts of the Munsifs within the Presidency of Fort William.	The whole.
XIX of 1845 ...	Assam Tea Company ...	The whole.
IV of 1846 ...	Sale of land in Execution of Decrees in the Territories subject to the Presidency of Fort William.	The whole.
XVII of 1847 ...	An Act for remedying a defect in the Law regarding undiscovered Defaults in the Prosecution of Suits.	The whole.
VII of 1848 ...	Customs Duties ...	So much as has not been repealed.
XIII of 1849 ...	An Act to prevent the smuggling of Salt into Calcutta.	The whole.
VIII of 1850 ...	Confirmation of decisions on certain appeals.	The whole.
X of 1850 ...	Aden ...	The whole.
XV of 1850 ...	An Act to extend the operation of Sections X and XII, Regulation XXVI, 1814, of the Bengal Code.	The whole.
XXXI of 1850 ...	Bombay Salt Revenue ...	Sections one and two.
XXI of 1852 ...	Bombay Deputy Collectors ...	Section two.
XXVI of 1852 ...	Procedure in the Courts of the Sadr Amins and Munsifs in the Presidency of Fort William.	The whole.
XXIX of 1852 ...	Circuits of Judicial Commissioners (Bombay).	So much as has not been repealed.
VI of 1853 ...	Summary Suits (Bengal) ...	Section nine.
X of 1853 ...	Amending Act XXII of 1836 ...	The whole.
XV of 1853 ...	Procedure in cases of Regular Appeal to the Sadr Courts in the Presidency of Fort William in Bengal.	The whole.
XVI of 1853 ...	Special Appeals ...	The whole.

## SCHEDULE.—(Continued.)

## PART II.—ACTS OF THE GOVERNOR-GENERAL IN COUNCIL.—(Continued.)

Number and Year.	Subject, Title or abbreviated Title.	Extent of Repeal.
IX of 1854 ...	Appeals in the Civil Courts of the East India Company.	The whole.
X of 1855 ...	Evidence ... ..	Section nine.
XXIX of 1855 ...	Customs ... ..	So much as has not been repealed.
XI of 1856 ...	Desertion ... ..	In sections two, five, six and seven the words "Joint Magistrate."
XII of 1856 ...	An Act to amend the Law respecting the employment of Ameens by the Civil Courts in the Presidency of Fort William.	In section three, the words "with the sanction of the Court of Sudder Dewanny Adawlut," and in section five the first nineteen words, and in section ten the words "under such general directions as may from time to time be prescribed by the Sudder Court."
VII of 1857 ...	Uncovenanted Agency ...	The whole Act, so far as it relates to Deputy Magistrates.
VI of 1859 ...	Ahmadabad Magistracy ...	The whole.
XV of 1860 ...	Calcutta Canal ... ..	The whole.
XVIII of 1863 ...	High Court, Fort William ...	So much of the title and preamble as relates to oaths.
XXIII of 1865 ...	Panjab Chief Court ... ..	The whole.
IV of 1869 ...	Divorce ... ..	In section fifty-eight, the words "United" and "and Ireland," and in section fifty-nine the word "United."
X of 1869 ...	Police Superannuation Funds ...	The whole.
IX of 1870 ...	Elphinstone Land Company ...	The whole.
XI of 1870 ...	Weights and Measures ...	The whole.
XII of 1870 ...	Native Passenger Ships ...	Section three, down to and including the words "repealed; and."
XIV of 1870 ...	The Repealing Act, 1870 ...	The whole.
XXIII of 1870 ...	Coinage ... ..	Section two and the schedule.
XXV of 1870 ...	Timber duties, Burma ...	The whole.
XXVI of 1870 ...	Prisons ... ..	Section two and the schedule.
XXVIII of 1870 ...	Commitments from Andamans ...	Section two.

## \* SCHEDULE.—(Continued.)

## PART II.—ACTS OF THE GOVERNOR-GENERAL IN COUNCIL.—(Concluded.)

Number and Year.	Subject, Title or abbreviated Title.	Extent of Repeal.
IV of 1871 ...	Coroners ... ..	Section two and the first schedule.
V of 1871 ...	Prisoners ... ..	Section two and the schedule.
VI of 1871 ...	Bengal Civil Courts ... ..	Sections two and twenty-three and the schedule.
IX of 1871 ...	Limitation ... ..	Section two and the first schedule.
X of 1871 ...	Excise ... ..	Section two and the schedule.
XIII of 1871 ...	Tariff ... ..	Section nine and Schedule C.
XX of 1871 ...	Panjab Local Rates ... ..	Section one, from and including "inclusive" down to and including "Acts."
XXVI of 1871 ...	Land Improvement Act ... ..	Section two and the schedule.
XXIX of 1871 ...	Bengal Regulations Repeal ... ..	The whole.
XXXIII of 1871 ...	Panjab Land Revenue ... ..	Section sixty-three and the second paragraph of section sixty-seven.
XI of 1872 ...	Foreign Jurisdiction and Extradition.	Section two and the first schedule.
XVII of 1872 ...	Postponement of Act X of 1872.	The whole.
XXIV of 1872 ...	Repealing Bombay Regulation XIII of 1827, section 34, clause 9.	The whole.
III of 1873 ...	An Act to consolidate and amend the law relating to the Civil Courts of the Madras Presidency subordinate to the High Court.	Section two and the schedule.
IV of 1873 ...	Municipal Committees in the Panjab.	In section two, the first paragraph, and in second paragraph the words "But" and "the said."
V of 1873 ...	Government Savings Banks ... ..	Section two.
VIII of 1873 ...	Irrigation, Navigation and Drainage in Northern India.	Section two and the schedule.
IX of 1873 ...	Appeals and Reviews of Judgment in the Panjab.	Section two.
X of 1873 ...	Oaths ... ..	Section two and the schedule.

SCHEDULE.—(Continued.)

PART III.—ACTS OF THE GOVERNOR OF FORT ST. GEORGE IN COUNCIL.

Number and Year.	Subject, Title or abbreviated Title.	Extent of Repeal.
V of 1863 ...	Madras Pier... ..	Section seventeen.
VI of 1863 ...	Schools ... ..	Section twenty-eight.
I of 1864 ...	Ports ... ..	Sections one and six.
II of 1864 ...	Arrears of Revenue ... ..	Sections sixty-five and sixty-six.
III of 1864 ...	Abkâri ... ..	Section thirty-four.
VI of 1865 ...	Seals ... ..	Section two and the first eight words of section one.
VIII of 1865 ...	Recovery of Rent . ... ..	Sections eighty-nine and ninety.
VI of 1867 ...	Land Revenue (Madras Town) ..	Section two.
VII of 1867 ...	Port-dues ... ..	Section one, and the first twenty-three words of section fifteen.
IX of 1867 ...	Madras Municipality ... ..	Section one.
I of 1868 ...	Nilgiri Hills Commissioner ...	Section thirteen, and the first twenty-four words of section one.
II of 1869 ...	Repealing Act ... ..	The whole.
V of 1869 ...	Jails ... ..	Section one.
V of 1871 ...	Amending Madras Act IX of 1867. *	Section four.

PART IV.—ACTS OF THE GOVERNOR OF BOMBAY IN COUNCIL.

Number and Year.	Subject, Title or abbreviated Title.	Extent of Repeal.
II of 1862 ...	An Act for extending the Powers of Municipal Commissioners, appointed under Act XXVI of 1850.	Section four, and the first six words of sections two and three.
IV of 1862 ...	Markets and Fairs ... ..	The first six words of section one.
V of 1862 ...	Bhâgdâri and Narwâdâri Tenures.	In section one, the words "from and after the passing of this Act." The first seven words in sections four and five.
IX of 1862 ...	An Act for further amending Act XXVI of 1850.	The first eight words of section one.
X of 1862 ...	An Act to amend section 45, clause 1, of Regulation XIII of 1827.	The preamble, and in section one, the words "Sessions Judge or other."



## ● SCHEDULE.—(Continued)

## PART IV.—ACTS OF THE GOVERNOR OF BOMBAY IN COUNCIL.—(Continued)

Number and Year.	Subject, Title or abbreviated Title.	Extent of Repeal.
1 of 1863	An Act for the Registry of Vessels and Levy of Pilotage Fees on the River Indus.	In the preamble, from and including the words "And whereas" down to and including "Sind." Sections sixteen and nineteen.
IV of 1863	An Act to amend Act XV of 1858 for the levy of Port-dues in the Port of Aden.	Section one, and section two down to and including the figures "1863."
VI of 1863 ...	Public Conveyances in the Town, Suburbs, and Harbour of Bombay.	Sections thirty-three and thirty-eight.
VII of 1863 . .	An Act for the Summary Settlement of Claims to exemption from the payment of Government Land Revenue, &c.	Sections one and twenty-seven.
VIII of 1863 .	Karachi Court of Small Causes..	The whole.
IX of 1863 ..	An Act for the Prevention of Adulteration of Cotton and the better Suppression of Frauds in the Cotton Trade in the Presidency of Bombay	Section one, and the first twenty-two words of section four.
XI of 1863	An Act for taking a Census of the Bombay Presidency.	The whole.
XII of 1863 ...	An Act to remove any doubts which may arise as to the legality of acts done, and proceedings held, in the Collectorate of Sattara, between the 1st January and 14th April 1863, both days inclusive	The whole.
III of 1864	An Act to repeal Clause 4 of Section II of Regulation V of 1830, and Section I of Regulation VIII of 1831.	The whole.
IV of 1864 .	Repeal of enactments relating to Native law-officers.	The whole.
V of 1864 ...	An Act to give Mamlutdars' Courts jurisdiction in certain cases, &c.	The preamble down to and including the figures and words "VI of 1830, and" Section two. In section twenty, the words and figures "as defined in Chapter II of Regulation XVI of 1827."
VI of 1864 . .	Diet-money of persons imprisoned by the Bombay Court of Small Causes	Section one.

SCHEDULE.—(Continued.)

PART IV.—ACTS OF THE GOVERNOR OF BOMBAY IN COUNCIL.—(Continued.)

Number and Year.	Subject, Title, or abbreviated Title.	Extent of Repeal.
I of 1865 ...	An Act to provide for the survey, demarcation, assessment and administration of lands held under Government, &c.	Section one from and including the words "and shall" to the end Section fifty.
IV of 1865 ...	An Act for the regulation of Mofussil Gaols and the enforcement of discipline therein.	Section one. Section two down to and including the word "operation." Section forty-one.
VI of 1865 ...	An Act to authorize the destruction of useless Records in certain Courts of the Bombay Presidency.	In the preamble from and including the words "and whereas" down to and including "useless records." Section two.
II of 1866 ...	An Act to divest Courts of Revenue of jurisdiction in certain cases, &c.	Sections one, four, seven and eight.
III of 1866 ..	Gambling ... ..	Section fifteen.
V of 1866 ...	Repealing Bombay Regulation XVI of 1827, section 10.	The whole.
VII of 1866 ..	An Act to limit the liability of a Son, Grandson, or Heir of a deceased Hindoo for the debts of his ancestor, &c.	Section three. Section four from and including the words "and the provisions" to the end. Section eight.
VIII of 1866 ...	Sale of Poisons ... ..	Section one and the first twelve words of section three. Section twenty-two.
IX of 1866 ...	An Act to authorize the extension of certain Regulations and Acts to Territories in the Bombay Presidency not subject to the General Regulations.	Section one and the first twelve words of section two.
X of 1866 ...	An Act to shorten the language used in Acts of the Governor of Bombay in Council, &c.	Sections eight and nine.
XI of 1866 ...	Port-dues ... ..	Section one.
XII of 1866 ...	Courts in Sindh ... ..	So much of section twelve as extends Act V of 1840. Sections eighteen, nineteen and twenty.
II of 1867 ...	An Act to amend (Bombay) Act No. XIV of 1866.	The whole.
V of 1867 ...	An Act to amend the Schedule annexed to Act No. XII of 1866 (Bombay.)	The whole.

## SCHEDULE.—(Continued.)

## PART IV.—ACTS OF THE GOVERNOR OF BOMBAY IN COUNCIL.—(Concluded.)

Number and Year.	Subject, Title, or abbreviated Title.	Extent of Repeal.
VII of 1867 ...	District Police ... ..	Section two.
VIII of 1867 ...	Village Police ... ..	Section two.
IX of 1867 ...	Sale of Spirituous and Fermented Liquors in the City of Bombay.	Sections one and sixteen.
I of 1868 ..	An Act to repeal section 3 of Act XXI of 1852 and to remove doubts, &c.	Section one, and in the Title the words and figures "to repeal section three of Act XXI of 1852, and"
II of 1868 ...	Public Ferries ... ..	Section one.
III of 1868 ...	An Act to amend the Schedule annexed to Act No. V of 1867 (Bombay)	Section one down to and including the words "repealed and"
IV of 1868 ...	Application of (Bombay) Act I of 1865 to Towns and Cities.	Sections sixteen and twenty.
I of 1869 .	Bhore Ghaut Accident ...	The whole.
III of 1869 ...	An Act to provide in the Presidency of Bombay funds for expenditure on objects of local public utility.	Section fourteen.
VI of 1869 ..	Inspection of Steam Boilers in the City of Bombay.	The last sentence of section eleven. Section fifteen.
I of 1870 ...	Repealing Certificate Tax ...	The whole.
II of 1870 ...	Official Seals of the Magistrates.	Sections one and three.
I of 1871 ...	An Act to provide for the cost of Police employed in Towns and Suburbs where Act XXVI of 1850 is in force.	Section four.

## PART V.—ACTS OF THE LIEUTENANT-GOVERNOR OF BENGAL IN COUNCIL.

Number and Year.	Subject, Title, or abbreviated Title.	Extent of Repeal.
II of 1862 ...	Amending Act XLII of 1860 ...	The whole.
III of 1862 ...	Land Revenue ... ..	Section one.
VII of 1862 ...	Resumption of Revenue ..	Section one.
VIII of 1862 ..	Zamindari Daks ... ..	Section one.

## SCHEDULE.—(Continued.)

## PART V.—ACTS OF THE LIEUTENANT-GOVERNOR OF BENGAL IN COUNCIL.—(Continued).

Number and Year.	Subject, Title, or abbreviated Title.	Extent of Repeal.
IV of 1863 .	Amending Act XXII of 1860 ...	In section one, the words and figures "The schedule annexed to Act XXII of 1860 is hereby repealed, except as to any proceedings pending at the time of the passing of this Act. and"
VI of 1863 .	Calcutta Municipality ...	Sections one and five.
II of 1864 .	Jails ... ..	Sections one and twenty.
V of 1864 ..	Canal Tolls ... ..	Section nineteen.
VI of 1864 ..	Inspection of Steam-boilers ...	Section thirteen.
VII of 1864 ..	Salt ... ..	Sections two, forty-two, and the schedule.
I of 1865 ..	Acts of Judge of 24-Parganas ...	The whole.
II of 1865 ..	Repealing Bengal Act IX of 1862	The whole.
V of 1865	Amending Bengal Act II of 1864.	Section one, and in section two, the words and figures "Sections V, XV and XIX of the said Act II of 1864 are hereby repealed, and"
VIII of 1865 ..	Sale of under-tenures ...	Sections two and eighteen.
I of 1866 .	Amending Bengal Regulation VI of 1819.	Section one.
IV of 1866 ...	Calcutta Police ... ..	Section two
V of 1866	Hackney Carriages ... ..	Section one.
VI of 1866 ..	Amending Bengal Act VI of 1863.	Section one.
IX of 1866 .	An Act for the more effectual punishment of persons resisting lawful apprehension or escaping from legal custody, &c.	The whole.
III of 1867 ...	Ships in Ports ... ..	Section twenty.
VI of 1867 ...	Police ... ..	Section fourteen.
IX of 1867 ..	Amending Bengal Acts VI of 1863 and VI of 1866.	Section twenty-three and the schedule.
XI of 1867 ...	Calcutta Police Rates ...	Section fifteen.
I of 1868 ...	Survey of Steamers ... ..	Section nineteen.
III of 1868 ...	Appeals under Bengal Regulation VII of 1822.	Section two.

## SCHEDULE.—(Continued.)

## PART V.—ACTS OF THE LIEUTENANT-GOVERNOR OF BENGAL IN COUNCIL.—(Concluded.)

Number and Year.	Subject, Title, or abbreviated Title.	Extent of Repeal.
IV of 1868 ...	Amending Act IX of 1847 ...	Section one.
V of 1868 ...	Hastings ... ..	Section two.
VII of 1868 ...	Arrears of land-revenue ...	Section twenty-nine and schedule E.
I of 1869 ...	Cruelty to animals ... ..	Section eight.
I of 1870 ...	Calcutta Water-rate ... ..	Section one and the schedule.
III of 1870 ...	Transfer to Civil Courts of certain pending suits.	The whole.
IV of 1870 ...	Court of Wards ... ..	Section eighty-seven.
V of 1870 ...	Calcutta Port Commissioners ...	Sections ninety-three and ninety-four.
II of 1872 ...	Jute warehouses ... ..	Section three.

## PART VI.—MADRAS REGULATIONS.

Number and Year.	Subject.	Extent of Repeal.
II of 1803 ...	Collectors ... ..	Sections three and four.
II of 1820 ...	Publication of certain sections of 53 Geo. III, C. 155.	The whole.

## PART VII.—BOMBAY REGULATIONS.

Number and Year.	Subject, Title, or abbreviated Title.	Extent of Repeal.
I of 1827 ...	Regulation for forming into a regular Code all Rules that may be enacted for the internal government of the Territories subordinate to the Presidency of Bombay.	So much as has not been repealed.
II of 1827 ...	A Regulation for defining the constitution of Courts of Civil Justice, and the powers and duties of the Judges and officers thereof.	Chapter I. In section forty-seven, clause <i>Second</i> , the words and figures "as provided in Regulation III, A.D. 1827, Section III, clause second." Appendix C.

SCHEDULE.—(Continued.)

PART VII.—BOMBAY REGULATIONS.—(Continued.)

Number and Year.	Subject, Title, or abbreviated Title.	Extent of Repeal.
V of 1827 ...	A Regulation defining the Limitations as to time within which civil actions may be prosecuted, &c.	In section fifty, clause <i>Fourth</i> , the words "unless such Court be subordinate to that of the Zillah Judge, in which case it shall be imposed by his immediate authority." Section fifty-two, clause <i>Fifth</i> . Section fifty-three, clauses <i>First</i> and <i>Fourth</i> . Section fifty-four, in clause <i>First</i> , from and including the words "unless such Court," down to the end of the clause; and, in clause <i>Second</i> , from and including the words "and the Court," down to and including "decrees."
VIII of 1827 ...	A Regulation to provide for the formal recognition of Heirs, Executors, and Administrators, &c.	The preamble down to and including the words "instituted and," and in the preamble the words "for the calculation of the interest of money, and for limiting the amount thereof, and:" and the words "to have effect from such date as shall be prescribed in a Regulation to be hereafter passed for that purpose." Section thirteen, and Appendix A.
XII of 1827 ...	A Regulation for the establishment of a system of Police throughout the Zillahs subordinate to Bombay, &c.	In the preamble, the last twenty words. Section two, clause <i>Second</i> . Section six. In section ten, clause <i>Second</i> , the words and figures "in the manner prescribed in Regulation IV, A.D. 1827, Section VIII, clause Tenth," "local currency," "Bombay Courier, or other."
XIII of 1827 ...	A Regulation for defining the Constitution of Courts of Criminal Justice, and the Functions and Proceedings thereof.	Section nineteen, clause <i>Sixth</i> , from and including the words "and if the Magistrate," down to the end of the clause. In section thirty-seven, clause <i>Second</i> , the words and figures "by imprisonment in commutation," and "in Regulation XIV, A.D. 1827, Section IX."
XIV of 1827 ...	A Regulation for defining crimes and offences, &c.	The preamble. Section thirty-one, clause <i>Third</i> . Section thirty-two, and the first and second clauses of section thirty-three.
		So much as has not been repealed.

## SCHEDULE.—(Continued.)

## PART VII.—BOMBAY REGULATIONS.—(Continued.)

Number and Year.	Subject, Title, or abbreviated Title.	Extent of Repeal.
XVI of 1827 ...	A Regulation defining the duties of the Collector, and his powers in regard to Subordinate Revenue Officers, and providing Rules for the guidance of Land Revenue Officers in general, throughout the Territories subordinate to Bombay.	<p>In the preamble, the last seventeen words.</p> <p>Section eleven, clause <i>Fourth</i>.</p> <p>In section fourteen, clause <i>Second</i>, the words "to the Judge."</p> <p>In section fifteen, clause <i>Second</i>, the words "through the Judge, who shall be bound to forward the same."</p> <p>In section twenty-three, clause <i>Second</i>, the word "the" before "stamped," and the words and figures "specified in Appendix (F) to Regulation XVIII, A.D. 1827."</p> <p>In section twenty-six, the words and figures "as required by Regulation VII, A.D. 1827, section IV, clause <i>Third</i>."</p> <p>In section twenty-seven, clause <i>Third</i>, down to and including the words "Fourth, and "</p> <p>Appendix A.</p>
XVII of 1827 ...	A Regulation for the territories subordinate to Bombay, prescribing Rules for the assessment and realization of the Land Revenue, &c.	<p>In the preamble, from and including the words "that the Collector," down to and including the words "revenue officers."</p> <p>In the preamble, the last seventeen words.</p> <p>In section two, clause <i>First</i>, the words and numbers "under any of the provisions contained in Chapters IX and X of this Regulation."</p> <p>In the same section, clause <i>Second</i>, the words "or in the enactments therein cited."</p> <p>In section four, clause <i>Third</i>, the words "by Regulation."</p> <p>In section five, clause <i>First</i>, the words "according to the Regulations."</p> <p>In section twelve, clause <i>Seventh</i>, the words and figures from and including the words "in Regulation," down to and including the word "sections."</p> <p>In section fourteen, the words and figures "of Regulation IV, A.D. 1827, section LXX."</p> <p>Section sixteen, clause <i>Fourth</i>.</p> <p>In section twenty-six, clause <i>Fifth</i>, the words and number "before the Collector, according to the provisions of Chapter VIII," and the words and number "according to the provisions of Chapter VIII."</p> <p>In section twenty-seven, the words and number "instituted before the</p>

SCHEDULE.—(Continued.)

PART VII.—BOMBAY REGULATIONS.—(Continued.)

Number and Year.	Subject, Title, or abbreviated Title.	Extent of Repeal.
XIX of 1827 ...	A Regulation for the Presidency prescribing Rules for the Assessment and Collection of the Land Revenue, and for collecting Taxes on Shops and Stalls, &c.	Collector according to the provisions of Chapter VIII." Section twenty-nine, clause <i>Second</i> .  In the preamble, the last twenty words. In section three, clause <i>Second</i> , the words and figures "which is as prescribed in Chapter I, Regulation V., A.D. 1827." Section seven, clause <i>First</i> , from and including the words "the amount" down to the end of the clause. Section eight, except the first fifteen words.
XXI of 1827 ...	A Regulation for collecting Customs on Opium and other specified Articles, &c.	In the preamble, the last sixty-four words. In section seven, clause <i>First</i> , the words "or Criminal Judge;" clause <i>Second</i> , the word "Bombay." In section nine, clause <i>Third</i> , the words "local currency." In section forty-six, clause <i>Second</i> , the words "for the benefit of the Company." Sections forty-nine, fifty, fifty-one, fifty-two and fifty-three. Section sixty-five, clause <i>Third</i> . In section sixty-six, clause <i>Second</i> , the words and number "as prescribed in section LVII, clause <i>Fifth</i> ." In section sixty-eight, clause <i>First</i> , the words "by the Regulations." In section seventy-one, clause <i>First</i> , the last thirty-three words.
XXII of 1827 ...	A Regulation to declare and define Military Authority, in its relations to the Civil Power and to the Community at large.	In the preamble, the words from and including "that Camp followers" down to and including "power." In the preamble, the last seventeen words. Section twenty-three, except the first twenty-two words. In section twenty-five, clause <i>Third</i> , the words and number "in the mode described in section V, clause <i>First</i> ." In section twenty-six, the words and number "in section IX of this Regulation." In the same section, clause <i>Third</i> , the word "Bombay." In section thirty-two, clause <i>First</i> , the word "Bombay," and the last twenty-four words of this clause. In section forty-two, clause <i>Fourth</i> ,



## SCHEDULE.—(Continued.)

## PART VII.—BOMBAY REGULATIONS.—(Continued.)

Number and Year.	Subject, Title, or abbreviated Title.	Extent of Repeal.
		the word "both," and the words "and the Court of Sudder Foujdary Adawlut." In section forty-nine, clause <i>First</i> , the word "Bombay."
XXV of 1827 ...	A Regulation for the confinement of State Prisoners and for the attachment of the lands of Chieftains and others, for reasons of State.	In the preamble, the last twenty words. Section four, clause <i>First</i> . In the same section, clause <i>Second</i> , the words "or the Judge on circuit."
XXVII of 1827 ...	A Regulation for abolishing the Zillah Court of Broach, and for attaching the Districts composing the Broach Zillah to the Zillahs of Surat and Kaira.	So much as has not been repealed.
XXVIII of 1827 ...	A Regulation for fixing the Date from whence certain Regulations passed on the 1st January 1827 are to take effect.	The whole.
XXXIV of 1827 ...	Nawáb of Surat ... ..	The whole.
IV of 1828 ...	Stamps ... ..	The whole.
IX of 1828 ...	Repealing Regulation I of 1828 and part of Regulation XXVII of 1827.	The whole.
X of 1828 ...	Repealing Regulation II of 1828 and part of Regulation XXVII of 1827.	The whole.
XI of 1828 ...	Assistant Judges ... ..	The whole.
XIV of 1828 ...	A Regulation for levying a Toll at the Sion Causeway, &c.	The whole.
IV of 1830 ...	A Regulation rescinding such Parts of Regulation XII* of 1827 as vest the Criminal Judge with Police Jurisdiction of the Magistrate and his Assistants.	So much as has not been repealed.
V of 1830 ...	A Regulation providing for the Appointment of a Revenue Commissioner, &c.	In the preamble, the words "to have effect from the date of promulgation."
VII of 1830 ...	A Regulation for bringing under the operation of the Regulations the territories comprised in the Southern Mahratta Country, belonging to the Honorable Company, &c.	Sections three and four.

SCHEDULE.—(Continued.)

PART VII.—BOMBAY REGULATIONS.—(Continued.)

Number and Year.	Subject, Title, or abbreviated Title.	Extent of Repeal.
XIII of 1830 ...	A Regulation for vesting certain Jagheerdars, Surinjameedars and Enamdars with the power of deciding Suits within the Boundaries of their respective estates.	In the preamble, the words "to have effect from the date of promulgation." In section two, clause <i>Second</i> , the words "to the deputy agent or assistant judge, as the case may be." In section five, the words and figures "under the rules provided in Chapter XXII, Regulation IV of 1827, for the admission of special appeals."
XV of 1830 ...	A Regulation for rescinding and re-enacting, with modifications, the provisions contained in Regulation VI, 1818, &c.	The whole.
XVIII of 1830 ...	A Regulation providing for the appointment of a Joint Judge within the Zillah of Poona.	The whole.
XX of 1830 ...	A Regulation for relaxing the restrictive system in regard to the sale and purchase of Malwa Opium, &c.	In the preamble, the words "to have effect from the date of promulgation." Section one. Section two, clause <i>Third</i> , the words and figures "leviable under Regulation XX of 1827."
I of 1831 ...	A Regulation for extending the jurisdiction of the Agent of Government, acting under the provisions of Section IV, Regulation XXIX of 1827, &c.	In the preamble the words "to have effect from the date of promulgation." In section one, clause <i>First</i> , the words " <i>First</i> , it is hereby declared that" and the words and figures "and which under the provisions of Section XXXI of Regulation XVII of 1827 are within the jurisdiction of Collectors of Land Revenue." Section one, clause <i>Second</i> .
X of 1831 ...	A Regulation providing for the recognition of the Vechania and Gerania Tenures as sufficient title for the exemption of lands from the payment of revenue, &c.	The whole.
XV of 1831 ...	A Regulation providing Rules for the punishment of Patels of villages, in case of their falsifying Revenue Records.	In the preamble, the words "to take effect from the date of promulgation."
XVI of 1831 ...	A Regulation for extending the jurisdiction vested in the Political Agent in the Southern Mahratta Country, &c.	In the preamble, the words "to have effect from the date of promulgation," and the first five words of section one.

## SCHEDULE.—(Continued.)

## PART VII—BOMBAY REGULATIONS.—(Concluded)

Number and Year.	Subject, Title, or abbreviated Title.	Extent of Repeal.
II of 1832 ...	A Regulation providing for the realization of certain items of revenue from farmers thereof.	In the preamble, the words "and land" and "transit duties," and the last eight words In section one, the words "land customs, transit duties."
V of 1833 ...	A Regulation for declaring all hereditary District and Village Officers, when entrusted by virtue of their offices with the charge or collection of the public money, to be officers of receipt, and liable to certain penalties for embezzlement, &c.	In the preamble, the word "fourth" and the last eight words. In section three, the word "fourth." In section four, the words and figures "In extension of the provisions of section XVIII of Regulation XVI of 1827, it is hereby declared that"
I of 1834	Repealing Regulation V of 1828	Section one, and the second clause of section two

## PART VIII—BENGAL REGULATIONS.

Number and Year.	Subject, Title, or abbreviated Title.	Extent of Repeal
II of 1793 ..	A Regulation for abolishing the Courts of Maal Adawlut or Revenue Courts, &c.	Sections two, nineteen and forty-eight In section three, the second sentence
IX of 1793 ..	Apprehension and trial of persons charged with crimes or misdemeanours.	So much as has not been repealed.
XVIII of 1793 ...	A Regulation for preserving complete the records of the Civil and Criminal Courts of Judicature, &c.	So much as has not been repealed.
XXI of 1793 ...	A Regulation for establishing in each Zillah an Office for keeping the records in the native languages which relate to the public revenue, &c.	The whole
III of 1794 ...	A Regulation for exempting proprietors of land (with certain exceptions) from being confined for arrears of revenue, &c.	Section twenty-two.
XVIII of 1795 .	A Regulation for extending to the Province of Benares Regulation XVIII, 1793, &c.	The whole.
XXX of 1795 .	A Regulation for extending to the Province of Benares Regulation XXI, 1793, &c.	The whole.

## SCHEDULE.—(Concluded.)

## PART VIII.—BENGAL REGULATIONS.—(Concluded.)

Number and Year.	Subject, Title, or abbreviated Title.	Extent of Repeal.
LVIII of 1795 ...	A Regulation for granting to the Collectors a commission on the jumma of lands, &c.	The whole Regulation, except sections three and four.
VII of 1797 ...	A Regulation for abolishing the Office of Commissioner at Backergunge, &c.	So much as has not been repealed.
V of 1804 ...	Native Officers ...	Sections twenty-five and twenty-six.
XIV of 1805 ...	A Regulation for the administration of justice in Civil Cases in the Zillah of Cuttack.	The whole Regulation, except so much of section eleven as has not heretofore been repealed.
XVIII of 1806 ...	Eastern Canal Tolls ...	The whole.
VI of 1814 ...	A Regulation for modifying certain parts of Regulation IX, 1810, and Regulation I, 1812.	So much as has not been repealed.
XXVI of 1814 ...	A Regulation for modifying some of the Rules at present in force regarding the admission and trial of special and summary appeals, &c.	So much as has not been repealed.
I of 1819 ...	A Regulation for replacing the Districts of Dinagepore and Rungpore under the management of the Board of Revenue, &c.	Sections one, two and three.
II of 1819 ...	Resumption of Revenue ...	Section nineteen, clause <i>Second</i> .
IV of 1821 ...	A Regulation for authorizing a Collector of Land Revenue or other Officer employed in the management or superintendence of any branch of the Territorial Revenues, to exercise, in certain cases, the powers of Magistrate, &c.	Sections two and three, and section eight, clause <i>Fourth</i> .
VIII of 1824 ...	Tolls on certain Rivers ...	The whole.
XIV of 1825 ...	Lákhiráj Tenures ...	Section five.
III of 1828 ...	Special Commissioner for hearing appeals from revenue authorities.	Section nine.

## ACT XIII OF 1873.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

*(Received the assent of the Governor-General on the 7th August 1873.)**An Act to amend the law relating to Timber floated down the rivers of British Burma.*

WHEREAS it is expedient to amend the law relating to timber floated down the rivers of British Burma; It is hereby enacted as follows :—

Preamble.

*I.—Preliminary.*

Short title.

1. This Act may be called "The Burma Timber Act, 1873."

Local extent.

It extends only to the territories for the time being under the administration of the Chief Commissioner of British Burma;

Commencement.

And it shall come into force on the seventh day of September 1873.

2. The enactments mentioned in the schedule hereto annexed are repealed to the extent mentioned in the third column of the said schedule.

Enactments repealed.

*II.—Duties.*

Duty on timber.

3. On all timber the produce of forests situate beyond the frontier of British Burma and floated down any of the rivers of the Martaban and Tenasserim Provinces, or past a frontier custom-house on the Irrawaddy or Sitang, a duty shall be levied, in such manner, at such places, by such persons, and to such extent, as the Chief Commissioner, with the previous sanction of the Governor-General in Council, from time to time, prescribes by notification in the *British Burma Gazette*:

Provided that, if the duty is directed to be levied on each log of the said timber, it shall not exceed two rupees twelve annas per log of five feet in girth and upwards, and one rupee six annas per log of less than five feet in girth:

Provided also that, if the duty is directed to be levied *ad valorem*, it shall not exceed eight per cent. on the value.

4. In every case in which such duty is directed to be levied *ad valorem*, the Chief Commissioner may, with the like sanction, from time to time fix, by like notifications, the value on which the duty shall be assessed.

Power to fix value for assessment of duty.

Legalization of prior levy of duty.

5. All duties levied before this Act comes into force on timber floated down any of the rivers of British Burma, shall be deemed to have been levied in accordance with law.

And all officers and other persons are hereby indemnified for anything done before this Act comes into force, which might lawfully have been done if this Act had been in force; and no suit or other proceeding shall be maintained against any such officer or other person in respect of anything so done.

Indemnity.

*III.—Rules.*

6. The Chief Commissioner may from time to time, with the previous sanction of the Governor-General in Council, make rules as to all or any of the following matters :—

Rules for timber floated.

(a) the time and manner of floating timber and bamboos down any of the rivers of British Burma,

(b) the detention and examination of timber and bamboos so floated,

(c) the marking of timber so floated, and the use and registration of timber-marks and marking-hammers,

(d) the sale of unclaimed timber so floated,

(e) the salvaging and collecting of timber so floated,

- (f) the protection of timber in transit,  
 (g) the descriptions of timber which may lawfully be floated, and the descriptions of timber which may not lawfully be floated, down any such rivers,  
 (h) the collection of royalty due on timber or bamboos so floated, and  
 (i) such other matters connected with timber and bamboos floated down any of the rivers of British Burma as the Chief Commissioner may from time to time think fit to regulate.

And all timber and bamboos found on, in or by any of such rivers, or stranded on the seashore, or adrift on the sea, which has been floated contrary to any rules made under this section and for the time being in force, may be confiscated.

SCHEDULE.

(See section 2.)

Number and Year.	Title.	Extent of Repeal.
XXX of 1854 ...	An Act to provide for the levy of Duties of Customs in the Arracan, Pegu, Martaban and Tenasserim Provinces.	Sections one, seven, eight and twelve. Sections four and six, so far as they relate to timber floated down the rivers of British Burma.
IV of 1863 ...	An Act to give effect to certain Provisions of a Treaty between His Excellency the Earl of Elgin and Kincardine, Viceroy and Governor-General of India, and His Majesty the King of Burma.	The whole Act, so far as it relates to duty on such timber.
VII of 1869 ...	An Act to give validity to certain Rules relating to Forests in British Burma.	The whole Act, so far as it gives validity to rules relating to duty on such timber.
	The Rules for the better management and preservation of the Government forests of British Burma, dated the 2nd August 1865.	So far as they relate to duty on such timber.

ACT XIV OF 1873.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 11th September 1873.)

*An Act to provide for the security and application of the effects of Officers and Soldiers becoming insane on service, but not removed, put on half-pay, or discharged.*

WHEREAS it is expedient to provide for the security and application of the effects of Officers and Soldiers becoming insane on service, but not removed, put on half-pay, or discharged; It is hereby enacted as follows:—

Preamble.

Short title.

1. This Act may be called "The Lunatic Soldiers' Property Act, 1873."

It extends to the whole of British India, and, so far as regards subjects of Her Majesty, to the dominions of Native Princes and States in India in alliance with Her Majesty;

Local extent.

Commencement.

Interpretation-clause.

'Officer.'

"Soldier" means a Soldier of Her Majesty's Army, or a European Soldier of Her Majesty's Indian Army, including a Warrant and a Non-Commissioned Officer.

'Soldier.'

3. When an Officer or Soldier becomes insane on service, but is not removed, put on half-pay, or discharged, on the ground of insanity, such Committee of Officers as the Governor-General in Council may from time to time prescribe, shall immediately secure all such of his effects as are within the territories to which this Act extends.

4. Such effects shall be liable to be applied in or towards payment of any expenses necessarily incurred in the maintenance and removal of such Officer or Soldier to any place in India, and of any such expenses and debts incurred and owing by him as would, under Part I of the Regimental Debts' Act, 1863, be preferential charges on his moveable property in case he had died on service, with the like preference, in the like order, and subject to the like provision for decision of doubt or difference, as would in that case apply, as nearly as may be, *mutatis mutandis*.

5. If any person who would, if such Officer or Soldier were dead, be entitled to take out representation to him (otherwise than as a creditor), or his wife (if any), or any near relative, pays in full the expenses and debts aforesaid, the said Committee shall not further interfere in relation to the property.

6. If such payment is not made, then, within one month after the insanity is known at the quarters where the property is, the said Committee may sell and convert into money such part of the property as they think fit,

and, after paying out of the proceeds the expenses attending the discharge of their duties, shall pay thereout the expenses and debts aforesaid,

and shall dispose of any property then remaining in their hands in such manner as may from time to time be prescribed by the Governor-General in Council, or by such Officer as he appoints in this behalf, to the end that the same may be applied for the benefit of the Officer or Soldier to whom it belongs.

7. Every payment or application of money, and every sale or other disposition of property, made by any Committee in pursuance of this Act, shall be valid as against all persons whomsoever.

And every Officer belonging to any such Committee shall be discharged from all liability in respect of the money or other property so paid, applied or disposed of.

8. The Governor-General in Council may, from time to time, prescribe such regulations as may seem fit for the better execution of any of the purposes of this Act.

## N. W. P. AND OUDH MUNICIPALITIES ACT.

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## ACT XV OF 1873.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 21st November 1873.)

*An Act to make better provision for the appointment of Municipal Committees in the North-Western Provinces and Oudh, and for other purposes.*

WHEREAS it is expedient to make better provision for the appointment of Municipal Committees in the North-Western Provinces and Oudh, and for the police, conservancy and local improvements, and for education, and for the levying of rates and taxes, in the places to which this Act may be extended ; It is hereby enacted as follows :—

## CHAPTER I.

## PRELIMINARY.

Short title.

1. This Act may be called "The North-Western Provinces and Oudh Municipalities Act, 1873 :"

Local extent.

It extends to the territories for the time being respectively under the government of the Lieutenant-Governor of the North-Western Provinces and under the administration of the Chief Commissioner of Oudh ;

Commencement.

And it shall come into force at once.

2. Acts Nos. XVIII of 1864 (to provide for the appointment of a Municipal Committee for the City of Lucknow), XXII of 1865 (to amend Act No. XVIII of 1864), XV of 1867 (to make better provision

for the appointment of Municipal Committees in the Punjab and for other purposes), and VI of 1868 (to make better provision for the appointment of Municipal Committees in the North-Western Provinces, and for other purposes), are repealed.

But all extensions and appointments made, and all limits defined, under any of the said Acts, shall be deemed to be respectively made and defined under this Act.

And all assessments, bye-laws, rules and regulations of any kind relating to matters provided for by this Act, which may heretofore have been made and approved by the Local Government, shall be deemed to have been made under this Act.

And all proceedings taken under any such assessment, bye-law, rule or regulation, shall be deemed to be as valid as if they had been taken under this Act.

Interpretation-clause.

3. In this Act, unless there be something repugnant in the subject or context—

"Committee."

"Committee" means a Municipal Committee appointed under the provisions of this Act ; and

"Municipality."

"Municipality" means any town or towns to which this Act may be extended.

4. The Local Government may, by notification published in the local official Gazette, declare its intention to extend this Act, or any of its provisions, to any town or towns in the territories under such Government.

Power to extend Act.

Any inhabitant of such town objecting to such extension may, within six weeks from the date of the said publication, send his objection in writing to the Secretary to the Local Government, and the Local Government shall take such objection into consideration.

When six weeks from the said publication have expired, the Local Government, if no such objections have been sent as aforesaid, or (where such objections have been so sent in) if, in its opinion, they are insufficient, may, by like notification, effect the proposed extension.

5. For the purposes of this Act, the Local Government may from time to time, by notification in the local official Gazette, define the limits of any town, and may include within the limits of such town any railway-station, village, building or land in the vicinity ;

Provided that no cantonment shall, without the previous consent of the Governor-General in Council, be included within the limits of any town for the purposes of this Act.

The Local Government may from time to time, by notification in the local official Gazette, declare to be united for the purposes of this Act any two or more towns, and may also declare by what name the municipality so formed shall be designated.

## CHAPTER II.

### APPOINTMENT OF MUNICIPAL COMMITTEES.

6. In any municipality to which this Act shall have been extended, the Local Government may appoint or direct to be appointed by election, for such period, not exceeding two years, as to it may seem fit, any number of the inhabitants of, or of persons possessing property or carrying on any trade or business in, such municipality, to be members of a Committee for carrying out the purposes of the Act.

The persons so appointed shall continue in office for two years, or until their successors shall have been appointed, and shall be eligible for reappointment.

In cases where the Local Government directs the appointment to be by election, it may fix the time and manner of the election and the qualifications of the electors, and of the candidates for office and, generally, may make such rules as it thinks fit for regulating the election.

7. The Local Government may, from time to time, remove any of the members of the Committee so appointed who desire to be discharged, or refuse or become incapable to act, or are convicted of an offence punishable under the Indian Penal Code with imprisonment for a term of not less than six months.

8. The Local Government may also fill up vacancies occurring among the members of the Committee, and may, if it think fit, on the recommendation of the Committee, add to their number.

Every member so appointed shall have the same powers, and be subject to the same liabilities, and vacate his office, and be eligible for reappointment, as if he had been originally appointed a member under section six.

9. In addition to the members appointed as aforesaid, the Local Government shall have power to appoint *ex officio* members of the Committee for every place in which they exercise their offices and to which this Act shall have been extended :

Provided that the number of such *ex officio* members shall not be more than one-third of the total number of the Committee.

10. The Local Government may also appoint the president and vice-president, or either of them, of any Committee, or sanction the election by any Committee of one of their members as president or as vice-president.

The Committee may appoint any one of their members or any other person to be their secretary.

11. All appointments and removals of members of a Committee, made under this chapter, shall be notified in the local official Gazette.

## CHAPTER III.

## OFFICE AND MEETINGS OF COMMITTEES.

Committee to have an office.

12. The Committee shall have an office, where they shall meet for the transaction of business at least once in every month.

13. (a). The president, or, in his absence, the vice-president, shall take the chair at every meeting of the Committee. In the absence of both the president and vice-president, the members present may elect a chairman for the occasion.

Rules as to meetings.

(b). The meetings shall be either general or special.

(c). The president or vice-president may, whenever he thinks fit, and he shall, upon a requisition made in writing by not less than one-fifth in number of the members, convene a meeting.

(d). Notice shall be given of every such meeting, and when the meeting is to be special, at least three days' notice thereof shall be given. Every notice shall state generally the nature of the business to be transacted at the meeting proposed to be called.

(e). The quorum necessary for the transaction of business at a general meeting shall be three.

(f). The quorum necessary for the transaction of business at a special meeting shall be one-half of the total number of the members of the Committee at the time of the meeting; and at least two-thirds of such quorum shall consist of non-official members.

(g). If within one hour from the time appointed for the meeting a quorum is not present, the meeting, if summoned by the president or vice-president, shall be dissolved.

In any other case it shall stand adjourned to the same day in the next week at the same time and place. And if at such adjourned meeting a quorum is not present, it shall be adjourned *sine die*.

(h). All business may be transacted at a general meeting which this Act does not require to be transacted at a special meeting.

(i). All questions which may come before the Committee at any meetings shall be decided by a majority of votes. Every member shall have one vote. In case of equality of votes, the chairman shall have a second or casting vote.

(j). Such decisions shall be recorded in a book kept for the purpose, and shall be published in some local English or vernacular newspaper (if any), or in such other manner as the Local Government may from time to time direct.

Correspondence between Committee and Local Government.

14. All correspondence between the Committee and the Local Government shall pass through the Commissioner of the Division.

The Commissioner of the Division shall be entitled to make such suggestions for the consideration of the Committee as he may deem fit; and the Committee shall furnish him with any information he may call for connected with the duties imposed upon them by this Act.

## CHAPTER IV.

## POWERS OF COMMITTEES.

Power to make assessments and levy taxes.

15. Subject to any general rules or special orders which the Governor-General in Council may from time to time make in this behalf,

every Committee intending to impose taxes for the purposes of this Act, shall from time to time give notice of such intention, and shall in such notice define the persons or property within the municipality to be taxed for the purposes of this Act, and the amount or rate of the taxes to be imposed hereunder.

Any inhabitant of such town objecting to such notice may, within a fortnight from the date of the said notice, send his objection in writing to the chairman of the Committee, and the Committee shall take such objection into consideration and report their opinion thereon to the Local Government.

When a fortnight from the date of the said notice has expired, if no such objections have been sent as aforesaid, or (where such objections have been so sent in) if, in the opinion of the Committee, they are insufficient, the Committee may, with the previous sanction of

the Local Government, to be notified in the official Gazette, define the persons or property to be taxed and the amount or rate of the taxes aforesaid, and may then at a special meeting impose such taxes accordingly.

The Committee may, at a special meeting, with the same sanction, cancel or vary any tax so imposed.

Specification of taxes.

16. Such taxes may (subject to the rules or orders last aforesaid) be all or any of the following:—

(a). A tax on houses, buildings and lands according to the annual value thereof, not exceeding seven and a half per cent. of such value:

(b). A tax on professions and trades:

(c). Taxes on carriages, horses, mules, elephants, camels, bullocks and asses:

(d). Tolls on carriages, carts, and animals entering the limits of the municipality:

(e). An octroi on articles brought within the said limits for consumption or use therein: Provided that a list of such articles shall have been submitted to and approved by the Local Government: Provided also, that the Local Government may exempt from the octroi any such articles intended for consumption or use by any class of persons or animals.

17. If the Committee desire to impose any other or further tax than such as are hereinbefore specified, they may do so with the previous sanction of the Local Government and of the Governor-General in Council, and subject to the provisions of section fifteen.

18. No tax shall be collected until the assessment thereof has been confirmed by such persons and in such manner as the Local Government appoints in this behalf.

The Local Government may, from time to time, make rules as to the persons by whom, and the manner in which, any assessment of taxes under this Act shall be confirmed, and for the collection of such taxes.

The Local Government may, from time to time, repeal, alter or add to such rules.

19. No tax, or toll, or rate on property, made under this Act shall be invalid for defect of form; and it shall be enough, in any such rate on property, or any assessment of value for the purpose of making such rate, if the property rated or assessed shall be so described as to be generally known, and it shall not be necessary to name the owner or occupier thereof.

### *Bye-laws and Rules.*

20. Every Committee may at a special meeting make bye-laws consistent with this Act, for regulating the time and place of their meeting, the conduct of their business, the division of duties among the members of the Committee, the salaries, appointment, suspension and removal of the officers and servants of the Committee, and other similar matters.

21. The Committee may appoint one or more of their number to carry out their resolutions, and to enforce the bye-laws and rules made, under the provisions of this Act, for the protection of the public health, or they may appoint a special officer for such purposes.

22. The Committee may at a special meeting make rules for declaring what acts or omissions within the municipality shall be considered to be public nuisances; for defining the cases, manner and times in and at which the officers of the Committee may enter upon private property for the detection and abatement of nuisances;

for determining the rates of hire of carriages, carts and boats plying for hire within the limits of the municipality;

for securing a proper registration of births, marriages and deaths, and for carrying out all or any of the purposes of this Act.

The Committee may from time to time, at a special meeting, repeal, alter or add to such rules.

23. No rule, and no alteration or repeal of, or addition to, a rule, made under this Act, shall have effect until it has been confirmed by the Local Government.

24. All bye-laws and rules made under this Act, and all alterations and repeals of, and additions to, such bye-laws and rules shall be published for such length of time and in such manner as the Local Government from time to time directs.

#### *Nuisances.*

Power to prohibit repetition or continuance of nuisances.

25. Every Committee may enjoin within the limits of the municipality any person not to repeat or continue a public nuisance. Every such injunction shall be deemed to have been made by a public servant.

26. Every Committee which the Local Government authorizes in this behalf may, so long as such authorization continues, exercise the powers of a Magistrate of a District as described in section five hundred and twenty-one of the Code of Criminal Procedure, for the removal of nuisances; and in the exercise of such powers shall follow the procedure prescribed in sections five hundred and twenty-one to five hundred and twenty-eight (both inclusive) of the same Code.

#### *Purchase and Sale of Land.*

27. Any Committee may at a special meeting, and with the previous sanction of the Local Government, purchase land for the purposes of this Act, and may at a like meeting and with the like sanction, sell any portion of such land which is not required for the purposes aforesaid, and convey the same in the names of the president and two of the members of the Committee.

The receipt of the president and any two members of the Committee for any monies paid to them upon any such sale, shall effectually discharge the persons paying the same therefrom, or from being concerned to see to the application thereof, or being accountable for the non-application or mis-application thereof; and the proceeds of any such sale shall be applied for the purposes of this Act.

Receipts.

#### *Controlling Power of Local Government.*

Cancellation and suspension of proceedings of Committee.

28. The Local Government may by order cancel, suspend or limit any of the acts, proceedings, bye-laws or rules of any Committee.

Conduct of litigation.

To every suit or other proceeding brought against a Committee, the Local Government shall be made a party.

29. The Local

Abolition of taxes.

Government may also abolish any tax which shall have been sanctioned under the provisions hereinbefore contained, but not so as to entitle any person to a refund of money paid in respect of such tax.

## CHAPTER V.

### RIGHTS, DUTIES AND LIABILITIES OF COMMITTEES.

#### *Municipal Fund.*

Municipal Fund.

30. All sums received by the Committee of any municipality to which this Act extends,

and all fines levied under this Act, or under Act No. V of 1861 (*for the regulation of Police*), on account of nuisances committed within the municipal limits,

and all receipts from property entrusted to and managed by the Committee,

shall constitute a fund which shall be called the Municipal Fund of such municipality, and shall, together with all property which may become vested in such Committee, be under their control, and shall be applied by them as trustees for the purposes of this Act.

31. The Municipal Fund shall, as a rule, be kept in the Government Treasury of the District, or in the Bank (if any) to which the Government shall have been made over.

But in places where there is no such Treasury or Bank, the said fund may, with the previous sanction of the Local Government, be deposited with any Banker, or person acting as a Banker, who has given such security for the safe custody and repayment on demand of the fund so deposited as the Local Government in each case thinks sufficient.

Custody and disbursement of Municipal Fund.

No disbursement of the Municipal Fund, or any part thereof, shall be made except under the signature of the president or vice-president and one other member of the Committee.

32. Every Committee, so far as the Municipal Fund at their disposal will permit, shall, after providing out of such fund for a police establishment in the manner hereinafter mentioned, keep the public streets, roads, drains, tanks and water-courses of the municipality for which they

Duties and powers of Committees.

are appointed, clean and in repair,

and may cause such streets and roads or any of them to be watered and lighted,

and may construct and provide for the management of poor-houses, dispensaries, market-places and other works of general utility,

and, generally, may do all acts and things necessary for the purposes of conservancy and general utility within their municipality.

The Committee may also make provision, by the establishment of new schools or the aiding of already existing schools, or otherwise, for the promotion of education in their municipality.

33. Every contract made on behalf of any Committee in respect of any sum exceeding twenty rupees, or in respect of any property exceeding twenty

Contracts.

rupees in value, shall be in writing, and shall be signed by the president or vice-president and at least two other members of the Committee, of whom one shall be an *ex officio* member. Unless so executed, it shall not be binding on the Committee.

#### *Municipal Police.*

34. Every Committee shall provide in the first place, from its funds, for the maintenance of the police establishment in the municipality.

The municipal police shall be appointed under such Act of the Governor-General in Council as may be applicable to the town, and their number shall be fixed by the Committee in consultation with the Inspector-General of Police, subject to the final decision of the Local Government.

35. Every officer of police in any municipality to which this Act shall have been extended, may take into custody without a warrant any person

Police to aid in carrying out orders regarding nuisances.

who, within his view, commits any of the offences mentioned in section thirty-four of Act No. V of 1861 (*for the regulation of Police*), and shall carry out the orders issued by the Committee for the prohibition and prevention of public nuisances, or nuisances declared to be such by any rule made under this Act.

#### *Annual Reports and Accounts.*

36. Every Committee shall annually, or oftener if directed by the Local Government to do so, submit reports of all works executed, or proceedings taken, by them under the authority of this Act, and also accounts of and relating to the Municipal Fund.

Such accounts shall be examined or audited in such manner as the Local Government from time to time prescribes.

The Committee shall also submit, at such time and in such form as may be directed by the Local Government, an estimate of their probable receipts for the financial year next following, with proposals for their expenditure.

An abstract of such estimate and proposals shall, on being so submitted, be published in such manner as the Local Government from time to time directs.

37. The Local Government may, from time to time, make rules consistent with this Act, as to the cost and the class of works which the Committee

Rules as to cost and class of works.

may execute, and the Committee shall be legally bound to obey such rules.

#### *Public Highways.*

38. All public highways in any municipality in which this Act is in force, not specially reserved by Government, together with all erections thereon and all materials thereof, shall be vested in and belong to the Committee.

Right of Committee in public highways.

#### *Land required for Public Purposes.*

39. When any land within the limits of any municipality to which this Act is extended is required for the construction or improvement of a highway, for the promotion of the healthiness of the neighbourhood, or for any

Acquisition of land for municipal purposes.

other public purpose, if the Committee cannot agree with the owner for the purchase thereof; the Local Government, on the recommendation of the Committee, may notify in the local official Gazette that such land is required under the provisions of the Land Acquisition Act, 1870;

and, on payment by the Committee of the compensation awarded under such Act, the land shall vest in them for the purposes of this Act.

#### *Suits by and against Committees.*

Suits by and against Committees.

40. Every Committee shall sue and be sued in the name of their president.

41. No member of a Committee shall be personally liable for any contract made or expense incurred by or on behalf of the Committee, but the funds from time to time in the hands of the Committee shall be liable for and chargeable with all contracts made in the manner above provided for.

Members not personally liable for contracts made by Committee.

42. Every member of a Committee shall be liable for any misapplication of money entrusted to the Committee to which he has been a party, or which happens through, or is facilitated by, the neglect of his duty: and he shall be liable to be sued for the same in such Court as the Local Government directs, as for money due to Government.

Liability of members for breach of trust.

43. No suit shall be brought against a Committee or any of their officers, or any person acting under their direction, for anything done under this Act, until the expiration of one month next after notice in writing has been delivered or left at the office of the Committee, or at the place of the abode of such person, stating the cause of suit and the name and place of abode of the intending plaintiff.

Notice previous to suing Committee or their officers.

Unless such notice be proved, the Court shall find for the defendant.

Every such suit shall be commenced within three months next after the accrual of the cause of suit and not afterwards.

If any person to whom any such notice is given shall, before suit is brought, tender sufficient amends to the plaintiff, such plaintiff shall not recover.

## CHAPTER VI.

### PENALTIES AND PROSECUTIONS AND RECOVERY OF TAXES.

44. No member of a Committee, or servant of a Committee, shall be interested directly or indirectly in any contract made with the Committee, and if any such person be so interested, he shall thereby become incapable of continuing in office or in employment as such member or servant, and shall be liable to a fine of five hundred rupees:

Penalty on member or servant of Committee being interested in contracts made with Committee.

Provided that no person shall by reason of being a shareholder in or member of any incorporated or registered Company be deemed interested in any contract entered into between such Company and the Committee.

45. Whoever infringes any rule made by a Committee and confirmed as directed in this Act, shall be liable to a fine not exceeding fifty rupees, and in the case of a continuing infringement, to a fine not exceeding five rupees for every day after notice from the Committee of such infringement.

Penalty for infringement of rules or non-payment of fines.

In default of payment of any fine imposed under this section, the defaulter shall, in the case of a continuing infringement, be liable to imprisonment for a term not exceeding one month; and in any other case, to imprisonment for a term not exceeding eight days.

46. Prosecutions under this Act for infringements of rules may be instituted before any Magistrate by the Committee or any person authorized by the Committee in this behalf.

Prosecutions.

47. All arrears of taxes imposed under this Act may be recovered as if they were fines, in the manner prescribed in section three hundred and seven of the Code of Criminal Procedure.

Recovery of taxes.

ACT XVI OF 1873.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 21st November 1873.)

*An Act to consolidate and amend the law relating to Village and Road Police in the North-Western Provinces.*

WHEREAS it is expedient to consolidate and amend the law relating to the Village and Road Police in the North-Western Provinces of the Presidency of Fort William in Bengal; It is hereby enacted as follows :—

*I.—Preliminary.*

- Short title. 1. This Act may be called "The North-Western Provinces Village and Road Police Act, 1873 :—"
- So far as regards the repeal of Act No. III of 1869, this Act extends to the whole of British India : the rest of this Act extends only to the territories for the time being under the government of the Lieutenant-Governor of the North-Western Provinces ;
- Local extent.
- Commencement. And it shall come into force on the passing thereof.
2. Act No. III of 1869 (*for the maintenance of the Rural Police in the North-Western Provinces*) and so much of section twenty-one of Bengal Regulation XX of 1817, and of form No. 6 of the Appendix thereto, as relates to the Village Watchmen of the North-Western Provinces, are hereby repealed.

*II.—Appointment of Village Police.*

3. The nomination to the post of Village Policeman shall be made by the zemindár of the village, or, where there are more zemindárs than one, by the lambardár as their representative, and where there are more lambardárs than one, the opinion of the majority (unless there is some special provision to the contrary in the village administration paper) shall prevail.

4. Every person authorized to nominate to the office of Village Policeman shall, within fifteen days after the occurrence of a vacancy in such office, nominate a proper person to the vacant post, and communicate the nomination to the Magistrate of the District.

5. The person so nominated shall, after due enquiry into his age, character and ability, be appointed or rejected at discretion by such Magistrate, or by some officer authorized by him in that behalf.

6. (a). In default of such nomination within the said fifteen days, the Magistrate of the District shall appoint such person as he thinks fit to the vacancy.

- (b). If the nomination has been made within the said fifteen days, but the nominee is rejected, the person authorized to nominate shall, within fifteen days from the date of such rejection, nominate another person to the vacant post; and in default of such nomination, or if such nomination has been made, but the nominee is again rejected, the Magistrate of the District shall appoint such person as he thinks fit to the vacancy.

*III.—Appointment of Road Police.*

7. Subject to the rules to be framed under section fourteen and for the time being in force, the Magistrate of the District may, from time to time, appoint persons to be the Road Police of his District.

*IV.—Duties of Village and Road Police.*

8. Every Village Policeman and every Road Policeman shall perform the following duties :—



(a). He shall give immediate information to the officer in charge of the police-station appointed for his village or beat,

(1). of every unnatural, suspicious, or sudden death occurring in the village of which he is Chaukidár, or within his beat;

(2). of each of the following offences occurring in such village or on such beat, (that is to say) murder, culpable homicide, rape, dacoity, theft, robbery, mischief by fire, house-breaking, counterfeiting coin, causing grievous hurt, riot, harbouring a proclaimed offender, exposure of a child, concealment of birth, administering stupefying drugs, kidnapping, lurking house-trespass, and,

(3). of all attempts and preparations to commit, and abetments of, any of the said offences.

(b). He shall keep the Police informed of all disputes which are likely to lead to any riot or serious affray.

(c). He shall arrest all proclaimed offenders, and all persons whom he may find in the act of committing any offence specified in paragraph (a), clause (2) of this section.

(d). He shall observe, and from time to time report to the officer in charge of the police-station within the jurisdiction of which his village or beat may be situate, the movements of all bad characters in or on such village or beat.

(e). He shall report to the officer in charge of such police-station the arrival of suspicious characters in the neighbourhood.

(f). He shall supply to the best of his ability any local information which a Magistrate or any officer of Police may require, and shall promptly execute all orders issued to him by competent authority.

Procedure on arrest by Village or Road Policeman.

9. Whenever a Village Policeman or Road Policeman arrests any person, he shall take him as soon as possible to the police-station within the jurisdiction of which his village or beat is situate.

#### *V.—Liabilities of Village and Road Police.*

Dismissal of Village or Road Policeman.

10. The Magistrate of the District may dismiss any Village Policeman or Road Policeman for any misconduct or neglect of duty.

11. Every Village Policeman and every Road Policeman guilty of any wilful misconduct in his office, or of neglect of duty, such misconduct or neglect not being an offence within the meaning of the Indian

Acts punishable.

Tenal Code,

or withdrawing from the duties of his office without permission, and without having given at least two months' notice of his intention to withdraw from such duties to the persons authorized to nominate or appoint under sections three and seven (as the case may be),

or offering any unnecessary personal violence to any person in his custody,

or violating any of the rules framed under section fourteen and for the time being in force,

shall be liable, on conviction before a Magistrate, to a penalty not exceeding three months' pay, or to imprisonment for a period not exceeding three months, or to both.

Penalty.

Fines to be credited to such fund as Government appoints.

12. All fines levied under this Act on Village Policemen or Road Policemen shall be credited to such fund as the Local Government from time to time appoints.

#### *VI.—Miscellaneous.*

13. All orders of, and appointments made by, the Magistrate of the District under sections five, six, seven or ten shall be subject to control, revision and alteration by the Commissioner to whom he is subordinate.

Power to make subsidiary rules.

14. The Local Government may from time to time frame rules

(a). for the discipline of the Village and Road Police,

(b). for regulating their numbers, location and duties, and

(c). for carrying out generally the purposes of this Act.

ACT XVII OF 1873.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 24th November 1873.)

*An Act to provide for the liquidation of the debts of the Nawáb Názim of Bengal, and for his protection against legal process.*

WHEREAS divers large pecuniary claims have been made against Sayyid Mansúr Ali, the present Nawáb Názim of Bengal, Behar and Orissa, commonly called the Nawáb Názim, which he has not the means of

Preamble.

satisfying, and for the purpose of recovering such claims divers suits have been brought against him, and divers attachments have been issued against his property in India:

And whereas, with respect to certain jewels and immoveable property, it is disputed whether they belong absolutely to the said Nawáb Názim or are held by the Government of India for the purpose of upholding the dignity of the Nawáb Názim for the time being, and litigation has consequently arisen between the creditors of the present Nawáb Názim and the Government of India:

And whereas the Government of India is desirous of freeing the said Nawáb Názim and his property, respectively, from such suits and attachments, and of discharging such portions of the said claims as are proper to be paid, and of settling the said dispute as to the said jewels and immoveable property:

And whereas in the meantime and for the future, it is expedient to exempt the said Nawáb Názim, except as hereinafter mentioned, from the jurisdiction of the Civil Courts, and to render him incapable of contracting further pecuniary obligations;

It is hereby enacted as follows:—

Short title.

1. This Act may be called "The Nawáb Názim's Debts Act, 1873:"

Local extent.

It extends to all persons and places for whom and for which the Governor-General in Council has power to make laws;

Commencement.

And it shall come into force at once.

2. The Governor-General in Council may from time to time nominate and appoint

Power to appoint Commission.

such persons as he thinks fit to be a Commission for the purposes hereinafter mentioned.

All persons so nominated and appointed (hereinafter called "the Commissioners") shall continue to be members of the said Commission during the pleasure of the Governor-General in Council, and shall hold their sittings at such place or places and time or times as they think fit.

3. The Commissioners shall publish thrice in the *Gazette of India* in English, and in the *Calcutta Gazette* in English, Urdú and Bengálí, and in

Notice to claimants.

such other mode and languages as they think fit, a notice calling upon all persons having claims against the said Nawáb Názim or his property, whether moveable or immoveable, to notify the same in writing to the Commissioners within six months from the date of the earliest of such publications.

4. Every debt or liability to which the said Nawáb Názim is subject, or with

Bar of debts not duly notified.

which his property, or any part thereof, is charged, and which is not duly notified to the Commissioners within the time and in the manner hereinbefore mentioned, shall be barred:

Provided that, on sufficient cause being shown to the Commissioners, they may admit such claim within the further period of six months from the expiration of the said period of six months.

Proviso.

Particulars of claim.

5. Every such claimant shall along with his claim present full particulars thereof.

Every document on which he founds his claims, or on which he relies in support thereof, shall be delivered to the Commissioners along with the claim.

If the document be an entry in any book, the claimant shall produce the book to the Commissioners, together with a copy of the entry on which he relies. The Commissioners shall mark the book for the purpose

Entries in books.

of identification, and after examining and comparing the copy with the original, shall return the book to the claimant.

If any document in the possession or under the control of the claimant is not delivered or produced by him to the Commissioners along with the claim, the Commissioners may refuse to receive such document in evidence on the claimant's behalf at the investigation of the case.

Exclusion of documents not produced.

The Commissioners may, from time to time, call for further and more detailed particulars of any claim preferred before them under this Act, and may at their discretion refuse to proceed with the investigation of the claim until such particulars are supplied.

May call for or admit any further evidence.

6. For the purposes of this Act, the Commissioners may summon and enforce the attendance of witnesses, and compel them to give evidence, and compel the production of documents by the same means, and, as far as possible, in the same manner as is provided in the case of a Civil Court by the Code of Civil Procedure.

Power of Commissioners to summon witnesses.

7. Every investigation conducted by the Commissioners, with reference to any claim preferred before them under this Act, or to any matter connected with any such claim, shall be deemed a judicial proceeding within the meaning of the Indian Penal Code.

Investigation to be a judicial proceeding.

And every statement made by any person examined by or before the Commissioners with reference to such investigation, whether upon oath or otherwise, shall be deemed to be evidence within the meaning of the same Code.

8. Every witness required by the Commissioners, except at the instance of a claimant, to attend and give evidence under the provisions of this Act, shall be entitled to a reasonable sum (to be allowed by the Commissioners) for his expenses in travelling to and from, and remaining at, the place at which he is required to attend.

Expenses of witnesses.

9. The Commissioners shall, by agreement with the claimant or, in default of such agreement, after due and full enquiry, determine the amount which, on the consideration of all the circumstances, they may consider each claimant ought in fairness and justice to receive. And in coming to such determination, they shall not be bound by any previous agreement or judicial proceeding.

Commissioners to determine amount due to each claimant.

10. The Commissioners shall certify in each case the amount so determined, and upon the Governor-General in Council, within six months from the date of the certificate, paying or tendering to any claimant the amount so certified, all claims of such claimant against the Nawáb Názim or his property shall be satisfied and extinguished.

Sum found due to be certified to Government.

11. No suit shall be commenced or prosecuted, and no writ or process shall at any time be sued for, against the person or property of the said Nawáb Názim, unless such suit be commenced, or such writ or process be sued for, with the consent of the Governor-General in Council first had and obtained.

Bar of suits against Nawáb Názim.

Such consent shall be certified by the signature of one of the Secretaries to the Government of India, and every such signature shall be judicially noticed.

And any suit which at any time shall have been, or shall be, commenced, and any writ or process which at any time shall have been, or shall be, sued for, against the person or property of the said Nawáb Názim, shall be of no effect unless and until the consent of the Governor-General in Council certified in manner aforesaid is obtained.

12. The Commissioners shall ascertain what jewels and immoveable property are held by the Government of India for the purpose of upholding the dignity of the Nawáb Názim for the time being, and shall certify the particulars of such jewels and property; and their finding thereon shall be binding and conclusive on all persons whomsoever.

Commissioners to ascertain the property held by Government for upholding the dignity of the Nawáb Názim's family.

13. If any question of law, or as to the construction of a document, arises in any case under this Act, and the Commissioners think it necessary for the purposes of fairness and justice to obtain a judicial opinion thereon, they may draw up a statement of the case and refer it for the decision of the High Court of Judicature at Fort William; and the provisions of sections twenty-four and twenty-five and of the first sentence of section twenty-six of Act No.

Power to refer questions of law to High Court.

XI of 1865 shall apply as if, in section twenty-six, for the word "Court," the word "Commissioners" were substituted.

And if, in the opinion of the High Court, the statement is imperfectly framed, the High Court may return it for amendment; and the costs (if any) consequent on any such reference shall be dealt with as the Commissioners shall in each case direct.

14. The said Nawáb Názim shall be incapable of entering into any contract which may give rise to any pecuniary obligation on his part.

Nawáb Názim to be incapable of contracting.

15. Nothing herein contained shall be deemed to render the Secretary of State for India in Council, or the Government of India, liable for any debt heretofore contracted by, or on behalf of, the said Nawáb Názim, or in respect of any claim to be reimbursed, which may be made by any person supplying him with necessaries.

Saving of Secretary of State in Council.

Bar of suit for acts done *boná fide*.

16. No suit or other proceeding shall be maintained against any person in respect of anything done by him in good faith under this Act.

## THE NORTH-WESTERN PROVINCES RENT ACT, 1873.

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ACT XVIII OF 1873.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 22nd December 1873.)

*An Act to consolidate and amend the Law relating to the recovery of Rent in the North-Western Provinces.*

WHEREAS it is expedient to consolidate and amend the law relating to the recovery of Rent in the North-Western Provinces of the Presidency of Fort William in Bengal; It is hereby enacted as follows:—

Preamble.

## CHAPTER I.

## PRELIMINARY.

1. This Act may be called "The North-Western Provinces Rent Act, 1873."

Short title. It extends in the first instance to the territories for the time being under the government of the Lieutenant-Governor of the North-Western Provinces, except those specified in the second schedule hereto annexed.

Local extent. But the Local Government may, by notification in the official Gazette, extend the whole or any part of this Act to all or any of the territories so excepted.

Save as provided by sections one hundred and seventy-one and one hundred and seventy-two, nothing herein contained applies to land for the time being occupied by dwelling-houses or manufactories, or appurtenant thereto.

Commencement. This Act shall come into force on the passing thereof.

2. Act No. X of 1859 (to amend the law relating to the recovery of Rent in the Presidency of Fort William in Bengal), Act No. XIV of 1863 (to amend Act X of 1859), and Act No. XXII of 1872 (to explain and amend Act No. X of 1859) are hereby repealed. But such repeal shall not legalize any practice which, immediately before the passing of this Act, was unlawful.

And all rules and orders now in force and made under any of the Acts hereby repealed shall, so far as they are consistent herewith, be deemed to have been made hereunder.

All proceedings commenced under any enactment hereby repealed shall be deemed to have been commenced under this Act, except where a decree has been made or an appeal presented: Provided that no proceeding relative to the enhancement of rent shall be deemed to have been commenced before the passing of this Act, merely because the landholder has served a notice under section thirteen of Act No. X of 1859, or because the tenant has contested his liability to pay the enhanced rent, by complaint of excessive demand of rent, under sections fourteen and twenty-three of the same Act.

Illustration (a) to the Indian Penal Code, section nineteen, and Act No. XI of 1865, section fifty-two, shall be read as if, for "Act X of 1859," the words and figures, "the North-Western Provinces Rent Act, 1873," were substituted. And section fifteen of Act No. XVIII of 1871 (for the levy of rates on land in the North-Western Provinces) shall be read as if, for "section twenty-three of Act No. X of 1859, and in section one of Act No. XIV of 1863," the words and figures "section ninety-four of the North-Western Provinces Rent Act, 1873," were substituted, and as if, for "Act No. X of 1859 and Act No. XIV of 1863," the words and figures, "the North-Western Provinces Rent Act, 1873," were substituted.

3. In this Act, unless there be something repugnant in the subject or context—

Interpretation-clause. 'Mahál.' (1.) 'Mahál' means—

(a) any local area held under a separate engagement for the payment of land-revenue, and for which a separate record-of-rights has been framed;

(b) any local area of which the revenue has been assigned or redeemed, and for which a separate record-of-rights has been framed;

'Rent.' (2) 'Rent' means whatever is to be paid, delivered or rendered by a tenant on account of his holding, use or occupation of land;

'Landholder.' (3) 'Landholder' means the person to whom a tenant is liable to pay rent;

'Sír-land.' (4) 'Sír-land' means—

(a) land recorded as sír at the last settlement of the district in which it is situate, and continuously so recorded since;

(b) land continuously cultivated for twelve years by the proprietor himself with his own stock or by his servants, or by hired labour;

(c) land recognized by village custom as the special holding of a co-sharer, and treated as such in the distribution of profits or charges among the co-sharers;

- (5) 'Collector of a District' means the chief officer in charge of the Revenue Administration of a District:
- (6) 'Commissioner of a Division' means the chief officer in charge of the Revenue Administration of a Division:
- (7) 'Board' means the Board of Revenue for the North-Western Provinces:
- (8) 'Civil Jail' means the civil jail of the District, and includes any place appointed by the Local Government for the confinement of prisoners under sentence of any Court constituted under this Act.
- 'Collector of a District.'
- 'Commissioner of a Division.'
- 'Board.'
- 'Civil Jail.'

## CHAPTER II.

### RIGHTS AND LIABILITIES OF LANDHOLDERS AND TENANTS.

4. In the permanently-settled districts, persons who possess a permanent transferable interest in land, and who are intermediate between the proprietor of a mahál and the occupants, and who hold (otherwise than under a terminable lease) at a fixed rent which has not been changed from the time of the Permanent Settlement, shall continue to hold at such rent.
- Persons holding land at fixed rent without change since permanent settlement to continue to hold at such rent.
5. All tenants in districts or portions of districts permanently settled, who hold lands at fixed rates of rent which have not been changed since the Permanent Settlement, shall have a right of occupancy at those rates, and shall be called "tenants at fixed rates."
- Tenants at fixed rates.
6. Whenever, in any suit to which the provisions of section four or section five apply, it is proved that the rent at which land is held has not been changed for a period of twenty years next before the commencement of the suit, it shall be presumed that the land has been held at that rent from the time of the Permanent Settlement, unless the contrary be shown, or unless it be proved that such rent was fixed at some later period.
- Presumption where rent of land not changed for 20 years.
7. Every person who may hereafter lose or part with his proprietary rights in any mahál shall have a right of occupancy in the land held by him as sir in such mahál at the date of such loss or parting, at a rent which shall be four annas in the rupee less than the prevailing rate payable by tenants-at-will for land of similar quality and with similar advantages.
- Expropriatory tenants.
- Persons having such rights of occupancy shall be called "expropriatory tenants," and shall have all the rights of occupancy-tenants.
8. Every tenant who has actually occupied or cultivated land continuously for twelve years has a right of occupancy in the land so occupied or cultivated by him.
- Occupancy-tenants.
- Such tenants shall be called "occupancy-tenants."
- The occupation or cultivating of the father or other person from whom the tenant inherits, shall be deemed to be the occupation or cultivating of the tenant within the meaning of this section:
- Tenants barred from right of occupancy.
- Provided that no tenant shall acquire, under this section, a right of occupancy—
- (a) in land which he holds from an occupancy-tenant, or from an expropriatory tenant, or from a tenant at fixed rates;
- (b) in sir-land;
- (c) in land held by him in lieu of wages.
- Provided also that, when a tenant actually occupies or cultivates land under a written lease without having a right of occupancy in such land, the period of twelve years necessary for acquiring a right of occupancy therein by him or any one claiming under him shall begin on the expiration of the term of such lease. If during the currency of such lease he ceases to occupy the land comprised therein, and sub-lets it to another, no right of occupancy in such land shall be acquired by the sub-lessee during the currency of the lease.
- Time excluded from reckoning period necessary for acquiring right of occupancy.
9. The right of tenants at fixed rates shall be heritable and transferable.
- Rights under sections 7 and 8 when transferable.

No other right of occupancy shall be transferable by grant, will or otherwise, except as between persons who have become by inheritance co-sharers in such right.

When any person entitled to such last-mentioned right dies, the right shall devolve as if it were land: Provided that no collateral relative of the deceased who did not then share in the cultivation of his holding shall be entitled to inherit under this section.

10. On the application of any tenant to have his class of tenure determined, the Collector of the District or Assistant Collector shall determine the class to which he belongs, namely—

whether he is a tenant at fixed rates,  
or an exproprietary tenant,  
or an occupancy-tenant,  
or whether he is a tenant without a right of occupancy.

Bar to enhancement of rent of tenants at fixed rates.

11. The rent paid by tenants at fixed rates shall not be liable to enhancement.

Enhancement in case of exproprietary and occupancy-tenants.

12. The rent paid by exproprietary or occupancy-tenants shall not be liable to enhancement except—

(a) by a written agreement registered under the Indian Registration Act, 1871, or recorded before the patwari of the village or the kánungo; or

(b) by order of a Settlement Officer passed under the law for the time being in force; or

(c) by order under this Act.

Grounds of enhancing rent of occupancy-tenants which has not been fixed by order.

13. Where the rent of any occupancy-tenant has not been fixed by order of a Settlement Officer under the North-Western Provinces Land Revenue Act, 1873, or by an order under this Act,

or where the rent has been fixed by any such order, but the term for which it has been fixed has expired,

or where any of the events mentioned in section sixteen has occurred,

the landholder may apply to enhance the rent of such tenant on one of the following grounds and on no others—

(a) that the rate of the rent paid by such tenant is below the prevailing rate payable by the same class of tenants for land of similar quality with similar advantages;

(b) that the value of the produce has, or the productive powers of the land have, been increased otherwise than by the agency or at the expense of the tenant;

(c) that the quantity of land held by the tenant has been proved by measurement to be greater than the quantity for which rent has been previously paid by him.

Enhancement of rent of expropriatory tenants which has not been fixed by order.

14. a. Where the rent of any expropriatory tenant has not been fixed by order of a Settlement Officer under the North-Western Provinces Land Revenue Act, 1873, or by an order under this Act,

or where the rent has been fixed by such order, but the term for which it has been fixed has expired,

or where any of the events mentioned in section sixteen has occurred,

the landholder may apply to enhance or determine the rent of such tenant as if he were an occupancy-tenant: Provided that his rent shall be four annas in the rupee below the prevailing rate for land of a similar quality with similar advantages held by tenants-at-will.

b. Whenever the district or tahsil, or other local area in which such land is situated,

has been divided by the Settlement Officer into circles of like capacity and soil, the land of similar quality, with similar advantages, shall, for the purposes of this section and section thirteen, be selected from the same circle.

c. When the Settlement Officer has not so divided the district or other local area as aforesaid, the land regarding which the application has been made shall be compared with land of similar quality and with similar advantages, in the same tahsil or in a tahsil immediately adjacent.

15. Where the rent of any expropriatory tenant or occupancy-tenant has not been

Abatement in like cases.

fixed by order of a Settlement Officer under the North-Western Provinces Land Revenue Act, 1873, or by an order under this Act,

or where the rent has been fixed by such order, but the term for which it has been fixed has expired,

or where any of the events mentioned in section sixteen has occurred, the tenant may apply for an abatement of his rent on one of the following grounds, and on no others :—

(a) that the area of the land held by him has been diminished by diluvion or otherwise :

(b) that the value of the produce has, or the productive powers of such land have, been decreased by any cause beyond his power.

Time of enhancement or abatement where rent of exproprietary or occupancy-tenant has been fixed by order under this Act.

16. Subject to the provisions of section seventeen, where the rent of any exproprietary or occupancy-tenant has been fixed by an order under this Act, such rent shall not be liable to be enhanced or abated

(a) until the expiration of ten years from the date on which such order took effect, or

(b) until the revision (before confirmation) of the assessment of the district by order of the Local Government, or

(c) until the conclusion of the period of settlement of the district, whichever of the said three events first occurs.

17. Where the rent of any exproprietary or occupancy-tenant has been fixed by order of a Settlement Officer under the North-Western Provinces Land Revenue Act, 1873, or by an order under this Act, the landholder may apply to enhance the rent of such tenant during the currency of the term for which the rent has been so fixed, on one of the following grounds, and on no others :—

(a) that the area of the tenant's holding has been increased by alluvion or otherwise :

(b) that the productive powers of the land held by the tenant have, since the date of the order, been increased otherwise than by the agency or at the expense of the tenant :

And the tenant may apply for abatement of his rent on one of the following grounds, and on no others :—

(c) that the area of the land held by him has been diminished by diluvion or otherwise :

(d) that the productive powers of such land have been decreased by any cause beyond his control.

Grounds of enhancement or abatement of rent of tenant at fixed rates.

18. In the case of a tenant at fixed rates, the landholder may apply to enhance his rent on the ground that the area of the land in his holding has been increased by alluvion or otherwise,

and the tenant may apply for abatement of his rent on the ground that the area of the land in his holding has been diminished by diluvion or otherwise.

Day before which applications for enhancement or abatement must be made.

19. Applications for enhancement or abatement of rent must be made on or before the thirty-first day of December next before the year commencing on the first day of July from which the rent is to be enhanced or abated,

Orders when to take effect.

and all orders for enhancement or abatement shall take effect from the first day of July next following the date of the application.

Consideration of caste and class of tenant in determining rate of his rent.

20. In determining, under this chapter, the rate of rent payable by any tenant, his caste shall not be taken into consideration, unless it is proved that, by local custom, caste is taken into account in determining such rate :

and whenever it is found that, by local custom or practice, any class of persons, by reason of their having formerly been proprietors of the soil or otherwise, hold land at favorable rates of rent, the rate shall be determined in accordance with such custom or practice.

21. No tenant-at-will of land shall be liable to pay rent in excess of the rent (if any) payable by him in the previous year ending on the thirtieth day of June, unless the landholder and tenant have agreed to the rent to be paid to the former by the latter, and such agreement has been recorded by the patwari of the village or the kánungo of the pargana in which such land is situate.

**22.** Notwithstanding anything hereinbefore contained, when the rent of any expropriatory or occupancy-tenant has been fixed by agreement between the parties, such rent shall not be liable to enhancement or abatement for such term as may be agreed on.

**23.** Whenever in any land the crops have been damaged or destroyed by any cause beyond the tenant's control, any officer empowered by the Local Government in this behalf may, subject to such rules as to appeal, confirmation or otherwise, as may from time to time be prescribed by the Board, order that the whole or any part of the rent then payable for such land shall be remitted, or that the payment thereof shall be suspended for such period as he thinks fit;

And, subject to the same rules, the landholder shall be bound by such order:

And in case of such remission, the Local Government shall remit the revenue due in respect of such land to an amount which shall, at the option of the Local Government, be equal to one-half of the rent remitted, or shall bear the same proportion to the whole of the revenue due in respect of the mahál, as the rent remitted bears to the whole of the rent payable in respect of such mahál;

And in case of such suspension, the Local Government shall suspend for the period of such suspension so much of the revenue payable in respect of the mahál as, at the option of the Local Government, is equal to one-half of the rent of which the payment has been suspended, or bears the same proportion to the whole revenue payable in respect of the mahál, as the rent of which the payment has been suspended bears to the whole rent payable in respect of such mahál.

#### (A).—Leases.

Contents of lease to which every tenant is entitled.

**24.** Every tenant is entitled to receive from the landholder, and may at any time during the continuance of his holding apply for, a lease containing the following particulars:—

- (a) the quantity of land held by him, and, where the fields have been numbered in a Government survey, the number of each field;
- (b) the amount of annual rent payable for such land;
- (c) the instalments in which, and the dates on which, such rent is to be paid;
- (d) any special conditions of the lease;
- (e) if the rent is payable in kind, or is calculated on a valuation of the produce, the proportion of produce to be delivered, the mode of valuation, and the time, manner and place of delivery.

Leases to which tenants at fixed rates are entitled.

**25.** Tenants at fixed rates are entitled to receive leases at such rates.

Leases to which expropriatory and occupancy-tenants are entitled.

**26.** Expropriatory and occupancy-tenants are entitled to receive leases at the rates hitherto paid by them, or determined in accordance with the provisions of this Act.

Leases to which other tenants are entitled.

**27.** All other tenants are entitled to leases only on such terms as may be agreed upon between them and the landholders.

Landholder granting lease entitled to reciprocal engagement.

**28.** Every landholder who grants a lease is entitled to receive a reciprocal engagement from the tenant, executed by the tenant, and conformable with the terms of the lease.

The tender to any tenant of a lease, such as he is entitled to receive, shall entitle the landholder to receive a reciprocal engagement from such tenant.

**29.** If any lease be granted, or if any agreement be entered into, by any landholder under engagement with Government for his land, fixing the rent of land for any period exceeding the term of such engagement, such lease or agreement shall, on the expiration of the term aforesaid, be void at the option of either party.

**30. a.** And whereas all grants (whether in writing or otherwise) for holding land exempt from the payment of rent which have been made since the first day of December 1790, by any authority other than that of the Governor-General in Council, were declared by Bengal Regulation XIX of 1793

section ten, to be null and void, and like provisions have been by divers Regulations applied to the several parts of the territories to which this Act extends, and the said Regulation XIX of 1793 also provided that no length of possession should be con-

dered to give validity to any such grant, either with regard to the property in the soil or the rents of it, it is hereby enacted as follows:—

b. Applications by the proprietor to resume such grants or to assess rent on the land, shall be made to the Collector of the District or Assistant Collector, and, subject to rules to be made under section two hundred and eleven, shall be dealt with as other applications under this Act.

c. Grants of land held under a written instrument, by which the grantor expressly agrees that the grant shall not be resumed, shall be held valid as against him (but not as against his representatives after his death) during the continuance of the settlement of the district in which the land is situate, which is current at the date of the grant.

d. Where any land has been for fifty years or upwards, and still is held rent-free and by at least two successors to the original grantee, such holding shall be deemed to confer on the holder a proprietary right.

e. Nothing in the Indian Limitation Act, 1871, shall bar the right to make an application under this Act to assess to rent land held rent-free.

f. Nothing in this section shall apply to either of the following cases:—

(1) Where land is previously to the passing of this Act held rent-free under a judicial decision;

(2) Where, previously to the passing of this Act, land held rent-free has been purchased for a valuable consideration and resumption thereof has been barred under Act No. X of 1859, section twenty-eight, or under the Indian Limitation Act, 1871, schedule II, No. 130.

(B).—*Relinquishment and Ejectment.*

31. Every tenant not holding under a lease shall continue liable for the rent of the land in his holding for the ensuing year, unless on or before the first day of May in any year he gives notice in writing to the landholder, or his recognized agent, of his desire to relinquish such land on the thirtieth day of June next ensuing, and relinquishes it accordingly; or unless it is let to any other person by such landholder or agent.

32. If the landholder or his agent refuse to receive such notice, or if he receive it but refuse to sign a receipt for the same, the tenant may make an application to the tahsildár, who shall thereupon cause the notice to be served on such landholder or agent, the tenant paying the costs of service.

33. The notice shall, if practicable, be served personally on the landholder or his agent; but if the landholder or his agent cannot be found, or if he evades service of the notice, service may be made by affixing the notice at his usual place of residence, or, if he does not reside in the district wherein the land is situate, at the *chaupâl*, or other conspicuous place in the village where the land is situate.

Where the delay in serving the notice is owing to the fault of the landholder or his agent, the notice shall be deemed to have been served at the first attempt to serve it.

34. a. When an arrear of rent remains due from any tenant, he shall be liable to pay interest on such arrear at one per cent. per mensem; and if the arrear remains due on the thirtieth day of June, to be ejected from the land in respect of which the arrear is due.

b. No tenant at fixed rates, proprietary tenant, occupancy-tenant, or tenant holding under an unexpired lease, shall be ejected otherwise than in execution of a decree or order under the provisions of this Act.

c. No ejectment of a tenant or forfeiture of a lease shall be decreed on account of any act or omission of the tenant.

(1) which is not detrimental to the land in his occupation, or inconsistent with the purpose for which the land was let, or

(2) which by law, custom, or special agreement does not involve the forfeiture of the lease.



35. If the landholder desires to eject a tenant at fixed rates, an expropriatory tenant, an occupancy tenant, or a tenant holding under an unexpired lease, against whom a decree for arrears has been passed and remains unsatisfied, he may, after the expiration of the year, ending on the thirtieth day of June, in which such arrears accrued, apply to the Collector of the District or Assistant Collector to eject the tenant.

Such officer shall, on receiving such application, (subject to the provisions of the Indian Limitation Act, 1871, and of section one hundred and sixty-two of this Act) cause a notice to be served on the tenant, stating the amount due under the decree, and informing him that if he does not pay such amount into Court within fifteen days from receipt of the notice, he will be ejected from his land.

If such amount be not so paid, the Collector of the District or Assistant Collector may eject the tenant.

36. If the landholder desire to eject a tenant not having a right of occupancy, or any other tenant holding only for a limited period, after the determination of his tenancy, he may cause a written notice of ejectment to be served on such tenant under the provisions of this Act.

37. The notice of ejectment shall be written in the vernacular language and character of the district; it shall specify the land from which the tenant is to be ejected; and it shall inform him that he must vacate such land on or before the first day of May next following; or that, if he means to contest the right to eject him, he must apply to the Collector of the District or Assistant Collector for that purpose on or before that date.

38. The notice shall be issued and served through the office of the tahsildar or before the first day of April; and the landholder shall pay the cost of service; it shall be served personally on the tenant, if practicable; but if he cannot be found, service may be made by affixing the notice at his usual place of residence.

39. a. The tenant, on whom such notice has been served, may, on or before the first day of May next after the service, make an application to the Collector of the District or Assistant Collector, contesting his liability to be ejected.

b. When such an application is made, the Collector of the District or Assistant Collector shall proceed to determine the question between the parties.

c. If no such application is made, the tenancy of the land in respect of which the notice has been served shall be held to cease on the first day of May next after the service; unless, after such service, the landholder authorises the tenant to continue in the occupation of the land.

40. If the landholder require assistance to eject the person whose tenancy is alleged to have ceased under the provisions of section thirty-nine, he may apply to the Collector of the District or Assistant Collector for such assistance before the ploughing for the *kharif* harvest commences in the district; and the Collector of the District or Assistant Collector shall order the ejectment of such tenant if he is satisfied—

- (a) that the notice was duly served on such tenant under section thirty-eight;
- (b) that he has not been authorised by the landholder to continue in occupation;
- (c) that the tenant has not made the application mentioned in section thirty-nine; or
- (d) that if such application has been made, the question has been determined adversely to the tenant.

Provided that no such application for the ejectment of a farmer on the determination of a lease shall be received if the lease be of the kind in which an advance has been made by the leaseholder, and the proprietor's right of re-entry at the end of the term is contingent on the re-payment of such advance either in money or by the usufruct of the land. In all such cases the landholder must proceed by suit in the Civil Court.

41. If the landholder expressly authorise the tenant, on whom the notice of ejectment has been served, or against whom any proceedings in ejectment under section forty have been taken, to remain in occupation of the land, and to prepare it for the *kharif* harvest, the proceedings shall become void.

42. *a.* Any tenant ejected in accordance with the provisions of this Act, shall be entitled to any growing crops or other ungathered products of the earth belonging to the tenant, and growing on the land at the time of his ejection, and to use the land for the purpose of tending and gathering in such crops or other products, paying adequate rent therefor.

*b.* Provided that, if the landholder desire, to purchase such crops or other products, he may tender their price to the tenant; and thereupon the right of the tenant to such crops and other products, and to use the land for the purpose aforesaid, shall cease.

*c.* In the case of a dispute under this section, the Collector of the District or Assistant Collector may, on the application of the landholder or tenant, award the rent and price so payable; and the amount of such award, or of any tender accepted under this section, shall be recoverable as an arrear of rent by suit under this Act.

*d.* The rent, if any, payable to the landholder by the tenant at the time of his ejection may be set-off against the price of the said crops or other products.

43. *a.* Wherever rent is taken by division of the produce in kind, or by estimate or appraisement of the standing crop, or other procedure of a like nature, requiring the presence both of the cultivator and landholder, either personally or by agent,

if either landholder or tenant, personally or by agent, neglect to attend at the proper time, or if there is a dispute as to the amount or value of the crop,

an application may be presented by either party to the Collector of the District or Assistant Collector, requesting that a proper officer be deputed to make the division, estimate, or appraisement.

*b.* On receiving such application, the Collector of the District or Assistant Collector shall issue a written notice to the opposite party, or his agent, to attend on the date and at the time specified in the notice, and shall depute an officer before whom such division, estimate, or appraisement shall be made.

*c.* If on or before the date appointed the dispute has not been amicably adjusted, three residents of the village or neighbourhood shall be appointed assessors; one by each of the parties, and one by the officer deputed to divide the grain or estimate or appraise the crops, and the officer deputed shall decide the amount of rent payable by their award, and shall give to the party applying a written authority to divide the grain or cut the crops.

*d.* Provided that, if either party fail to attend, the officer deputed shall nominate an assessor on his behalf.

*e.* The officer deputed shall report his proceedings to the Collector of the District or Assistant Collector, who shall determine the amount of costs properly incurred under this section, and the share of the costs to be paid by either party.

*(C.)—Compensation for Improvements made by Tenants.*

44. If any tenant, or any person from whom he has inherited or purchased, make any such improvements on the land in his possession as are hereinafter mentioned, neither he nor his representative shall be ejected from the same land without payment of compensation for such improvements.

*Explanation.*—The word "improvements" as used in this section means works by which the annual letting value of the land has been, and at the time of demanding compensation continues to be, increased, and comprises—

(a) tanks, wells, and other works for the storage, supply or distribution of water for agricultural purposes,

(b) works for the drainage of land, or for the protection of land from floods, or from erosion or other damage by water,

(c) the reclaiming, clearing, or enclosing of lands for agricultural purposes,

(d) the renewal or re-construction of any of the foregoing works, or alterations therein, or additions thereto.

45. Such compensation may, at the option of the landholder or his representative, be made—

- 1st,—by payment in money;  
 2nd,—by a rent to be charged on the land;  
 3rd,—by the grant of a beneficial lease of the land, by the landholder or his representative, to the tenant or his representative;  
 4th,—partly by one or by any two of the said ways, and partly by the others or other of the same ways.

46. In case of difference as to the amount or value of the compensation tendered, either party may apply to the Collector of the District or Assistant Collector stating the matter in dispute, and requesting a determination thereof.

On receiving such application, the Collector of the District or Assistant Collector shall

- (a) cause notice thereof to be served on the other party,
- (b) take such evidence as the parties or either of them may adduce,
- (c) make such further inquiry as the Collector of the District or Assistant Collector may deem necessary, and
- (d) determine the amount of the payment in money, and the amount and incidence of the rent-charge, and the terms of the lease, or any of such matters.

47. In determining the amount or value mentioned in section forty-six, or the terms of such lease, the Collector of the District or Assistant Collector shall take into account any assistance given to the tenant by the landholder either directly in money, material or labour, for the purpose of making such improvements, or indirectly by allowing the tenant to hold at a favorable rate of rent.

*(D.)—Compensation for wrongful Acts and Omissions.*

48. Every tenant from whom any sum is exacted in excess of the rent specified in his lease or payable under the provisions of this Act,

and every tenant from whom a receipt is withheld for any sum of money paid by him as rent, shall be entitled to recover from the landholder compensation not exceeding double the amount so exacted or paid.

Receipts for rent shall specify the period or crop on account of which the rent is acknowledged to have been paid; and any refusal to make such specification shall be held to be a withholding of a receipt.

49. If payment of rent, whether the same be legally due or not, is extorted from any tenant by illegal confinement or other duress, he shall be entitled to recover from the person guilty of such extortion such further compensation, not exceeding the sum of two hundred rupees, as the Collector of the District or Assistant Collector thinks reasonable.

An award of compensation under this section shall not bar or affect any penalty or punishment to which the person guilty of such extortion may be subject under the Indian Penal Code.

*(E.)—Deposit of Rent in Court.*

50. If any tenant tenders to the landholder full payment of the rent due from him, and if the amount so tendered be not accepted, and a receipt for the amount forthwith granted, the tenant may thereupon apply to the Collector of the District or Assistant Collector for leave to deposit such amount in his Court to the credit of the landholder.

51. The application to the Collector of the District or Assistant Collector shall be as nearly as may be in the form (A) in the first schedule hereto annexed, and shall be verified in the manner prescribed for the verification of plaints under section one hundred and seven:

and the person making the verification shall be punishable, if the application contain any averment which he knows or believes to be false, or does not know or believe to be true.

52. The Collector of the District or Assistant Collector shall receive the amount which the tenant desires to deposit, and shall thereupon issue to the person to whose credit it has so been deposited, a notice in English or the vernacular language of the district in the form (B) in the first schedule hereto annexed, or to the like effect:

Notice to issue on deposit being made.

And such deposit shall, in all questions between the landholder and the tenant, be deemed to be a payment made by the tenant to the landholder on account of the rent.

Mode of serving notice.

53. Such notice shall be served through the tahsildár upon the person to whom it is addressed, or upon his recognized agent. In their absence, the notice shall be affixed at the *chaupál*, or other conspicuous place in the village in which the land for which the rent is due is situate.

54. If at any time before the expiration of three years from the date of the deposit the person on whom such notice is served, or his recognized agent, appears, and applies that the money in deposit be paid to him, it shall be paid accordingly, unless it has been repaid or paid in accordance with the provisions next hereinafter contained.

Payment to person served with notice on his application.

55. If no application be made by such person or his recognized agent, the sum shall be repaid to the depositor on the expiration of three years from the date of the deposit.

Refund to depositor.

And at any time before the expiration of such period, on the joint application of the depositor and the person to whose credit the said sum was deposited, such sum shall be paid in such manner as the joint applicants desire.

### CHAPTER III.

#### DISTRESS.

Produce of land hypothecated for rent.

56. The produce of all land in the occupation of a cultivator shall be deemed to be hypothecated for the rent payable in respect of such land ;

and when an arrear of rent is due from any cultivator, the person entitled to receive rent immediately from him may, instead of suing for the arrear as hereinafter provided, recover the same by distress and sale of the produce of the land in respect of which the arrear is due, under the rules contained in this chapter.

Recovery of arrears by distress.

57. Provided—

Distress of produce barred by security given for rent.

(a) that when a cultivator has given security for the payment of his rent, the produce of the land for the rent of which security has been given, shall not be liable to be distrained :

Sharer when entitled to distrain.

(b) that no sharer in any mahál shall have power to distrain upon any cultivator unless he is entitled to collect the whole rent from such cultivator :

(c) that no sharer in a joint undivided mahál shall exercise such power otherwise than through a manager authorized to collect the rents of the whole mahál on behalf of all the sharers therein :

Distress by manager.

(d) that in pattidári maháls distress shall be made only through a lambardár, or, where the rent of a pattí is not collected by a lambardár, through the pattidár who is entitled to collect the rent.

Distress in pattidári maháls.

No distress for overdue arrear, nor, without agreement, for excess over past year's rent.

58. A distress shall not be made for any arrear which has been due in respect of any land for a longer period than one year :

nor for the recovery of any sum in excess of the rent payable for the same land in the preceding year, unless the rent has been enhanced under the provisions hereinbefore contained, or by order of a Settlement Officer, or unless the cultivator has agreed to pay such excess and such agreement has been attested before the patwári or kánúngo.

59. The power to distrain conferred by sections fifty-six and fifty-seven may be exercised by managers under the Court of Wards, and other persons lawfully entrusted with the charge of immoveable property ;

and also by the agents employed by such persons as aforesaid, in the collection of rent, if expressly authorized by power-of-attorney in that behalf :

If any wrongful act is committed by any such agent under colour of the exercise of the said power, such agent and his principal shall be jointly and severally liable to make compensation for such act.

Liability for illegal act.

60. When any person, empowered to distrain property under section fifty-six, section fifty-seven, or section fifty-nine, employs a servant or other person to make the distress, he shall give him a written authority for the same, and the distress shall be made in the name of the person giving such authority.

Written authority to servants employed to distrain.

61. Standing crops and other ungathered products of the earth, and crops or other products when reaped or gathered, and deposited in any threshing-floor or place for treading out grain or the like, whether in the field or within a homestead, may be distrained by persons invested with power to distrain under the provisions of this Act.

Standing crops and crops gathered liable to distress.

But no such crops or products, other than the produce of the land in respect of which an arrear of rent is due, or of land held under the same engagement, and no grain or other produce after it has been stored by the cultivator, and no other property whatsoever, shall be liable to be distrained under this Act.

Exception.

62. Before or at the time when a distress is made under this Act, the distrainer shall cause the defaulter to be served with a written demand for the amount of the arrear, together with an account exhibiting the grounds on which the demand is made.

Defaulter to be served with written demand and account.

The demand and account shall, if practicable, be served personally on the defaulter; or, if he abscond or conceal himself, so that they cannot be so served, shall be affixed at his usual place of residence.

Mode of service.

63. Unless the amount of the demand is immediately paid or tendered, the distrainer may distrain property as aforesaid equal in value, as nearly as may be, to the amount of the arrear and the costs of the distress; and shall prepare a list or description of the said property, and deliver a copy of the same to the owner; or, if he be absent, affix it at his usual place of residence.

Distress to be proportionate to arrear.

List of property to be prepared and copy served on owner.

64 a. Standing crops and other ungathered products may, notwithstanding the distress, be reaped and gathered by the cultivator, and he may store the same in such granaries or other places as are commonly used by him for the purpose.

Standing crops, &c., when distrained, may be reaped and stored.

b. If the cultivator neglect to do so, the distrainer shall cause the said crops or products to be reaped or gathered, and in such case shall store the same either in such granaries or other places as aforesaid, or in some other convenient place in the neighbourhood.

c. In either case the distrained property shall be placed in the charge of some person appointed by the distrainer for the purpose.

d. Crops or products which, from their nature, do not admit of being stored, may be sold before they are reaped or gathered, under the rules herein-after provided; but in such case the distress shall be made at least twenty days before the time when the crops, or products, or any part of the same are fit for reaping or gathering.

Sale of products which cannot be stored.

65. If a distrainer is opposed, or apprehends resistance, and desires to obtain the assistance of a public officer, he may apply to the Collector of the District or Assistant Collector, who may, if he thinks necessary, depute an officer to assist the distrainer in making the distress.

Assistance to distrainer opposed or apprehending resistance.

66. If at any time after property has been distrained, and before the day fixed for putting it up to sale as hereinafter provided, the owner of the property tenders payment of the arrear demanded of him, and of the expenses of the distress, the distrainer shall receive the same, and shall forthwith withdraw the distress.

Distress to be withdrawn on tender of arrear and expenses before sale.

Application for sale.

67. Within five days from the time of the storing of any distrained crops or products, or, if the crops or products do not from their nature admit of being stored, within five days from the time of making the distress, the distrainer shall apply for sale of the same to the officer for the time being authorized by the Local Government to sell distrained property within the tahsil in which they are situate.

Contents of application. 68. The application shall be in writing, and shall contain—

- (a) an inventory or description of the property distrained,
- (b) the name of the defaulter and his place of residence,
- (c) the amount due, and the date of the distress, and
- (d) the place in which the distrained property is.

Fee for service of notice.

Together with the application, the distrainer shall deliver to the said officer the fee for the service of a notice upon the defaulter as hereinafter provided.

Procedure on receipt of application.

69. Immediately on receipt of the application, the said officer shall send a copy of it to the Collector of the District or Assistant Collector ;

and shall serve a notice in the form (C) contained in the first schedule hereto annexed, or to the like effect, on the person whose property has been distrained, requiring him either to pay the amount demanded, or to institute a suit to contest the demand before the Collector of the District or Assistant Collector within the period of fifteen days from the receipt of the notice.

He shall at the same time send to the Collector of the District or Assistant Collector, for the purpose of being put up in his office and in the office of the tahsildár, a proclamation fixing a day for the sale of the distrained property, which shall not be less than twenty days from the date of the application ; and shall deliver a copy of the proclamation to the peon charged with the service of the notice, to be put up by him in the place where the distrained property is deposited.

The proclamation shall contain—

- (a) a description of the property,
- and shall specify—
- (b) the demand for which it is to be sold, and
  - (c) the place where the sale is to be held.

70. If a suit is instituted before the Collector of the District or Assistant Collector in pursuance of the aforesaid notice, the Collector of the District or Assistant Collector shall send to the officer referred to in section sixty-seven, or, if so requested, shall deliver to the owner of the distrained property a certificate of the institution of such suit ;

and on such certificate being received by, or presented to, the said officer, he shall suspend the sale.

71. A person whose property has been distrained in manner hereinbefore provided, may immediately after the distress, and before the issue of notice of sale, institute a suit to contest the demand of the distrainer.

When such suit is instituted, the Collector of the District or Assistant Collector shall proceed in the manner prescribed in the last preceding section.

If, thereafter, application for the sale of the property is made to the said officer, he shall send a copy of the application to the Collector of the District or Assistant Collector, and suspend further proceedings, pending the decision of the case.

72. The person whose property has been distrained may, at the time of instituting Distress when to be any such suit as aforesaid, or at any subsequent period, execute a withdrawn. bond with a surety, binding himself to pay whatever sum may be adjudged to be due from him, with interest and costs of suit ;

and when such bond is executed, the Collector of the District or Assistant Collector shall give to the owner of the property a certificate to that effect, and, if so requested, shall serve the distrainer with notice of the same ;

and upon such certificate being presented to the distrainer by the owner of the property, or served on him by order of the Collector of the District or Assistant Collector, the property shall be released from distress.

73. If the institution of a suit to contest the demand of the distrainer has not been certified, in manner hereinbefore provided, to the said officer, on When sale may be proceeded with. or before the day fixed in the proclamation of sale, he shall, unless the said demand, with such costs of the distress as are allowed by him, be discharged in full, proceed, in manner hereinafter mentioned, to sell the property or such part of it as may be necessary to satisfy the demand with the costs of distress and sale.

- 74.** The sale shall be held at the place where the distressed property is, or at the nearest place of public resort, if the said officer is of opinion that it is likely to sell there to better advantage.
- Place of sale.**
- The property shall be sold by public auction, in one or more lots, as the officer holding the sale may think advisable ;
- Manner of sale.**
- and if the demand, with the costs of distress and sale, be satisfied by the sale of a portion of the property, the distress shall be immediately withdrawn with respect to the remainder.
- Withdrawal of distress when demand and costs satisfied.**
- 75.** If, on the property being put up for sale, a fair price (in the estimation of the officer holding the sale) be not offered for it, and if the owner of the property, or some person authorized to act on his behalf, apply to have the sale postponed until the next day, or, if a market be held at the place of sale, the next market-day, the sale shall be postponed until such day, and shall be then completed whatever price may be offered for the property.
- If fair price be not offered, sale may be postponed and shall be then completed.**
- 76.** The price of every lot shall be paid for in ready money at the time of sale, or as soon thereafter as the officer holding the sale thinks necessary ;
- Payment of purchase-money.**
- and, in default of such payment, the property shall be put up again and sold.
- Resale on default.**
- When the purchase-money has been paid in full, the officer holding the sale shall give the purchaser a certificate, describing the property purchased by him and the price paid.
- Certificate to purchaser.**
- 77.** From the proceeds of every sale of distressed property under this Act, the officer holding the sale shall make a deduction at the rate of one anna in the rupee on account of the costs of the sale, and shall send the amount so deducted to the Collector of the District or Assistant Collector.
- Deduction, from proceeds of costs of sale.**
- He shall then pay to the distrainer the expenses incurred by the distrainer on account of the distress, and of the issue of the notice and proclamation of sale prescribed in section sixty-nine, to such amount as, after examining the statement of expenses furnished by the distrainer, he thinks proper to allow.
- Payment of distrainer's expenses.**
- The remainder shall be applied to the discharge of the arrear for which the distress was made, with interest thereon up to the day of sale ;
- Discharge of with interest.**
- and the surplus (if any) shall be delivered to the person whose property has been sold.
- Surplus.**
- 78.** Officers holding sales of property under this Act, and all persons employed by or subordinate to such officers, are prohibited from purchasing, either directly or indirectly, any property sold by such officers.
- sale-officers and employees prohibited from purchasing.**
- 79.** Officers holding sales under this chapter are required to bring to the notice of the Collector of the District or Assistant Collector any material irregularities committed by distrainers under colour of this Act ;
- Report of irregularities by distrainer.**
- and if, in any case, on proceeding to hold any such sale, the officer holding it find that the owner of the property has not received due notice of the distress and intended sale, he shall postpone the sale and report the case to the Collector of the District or Assistant Collector, who shall thereupon direct the issue of another notice and proclamation of sale under section sixty-nine, or pass such other order as he thinks fit.
- Postponement of sale, and report to Collector when owner has not received due notice. Order of Collector.**
- 80.** When an officer goes to any place for the purpose of holding a sale under this Act, and no sale takes place, either for the reason stated in section seventy-nine, or because the demand of the distrainer has been previously satisfied, no intimation of such satisfaction having been given by the distrainer to such officer, the charge of one anna in the rupee on account of expenses shall be payable, and shall be calculated on the estimated value of the distressed property.
- Levy of charge when sale-officer attends, and no sale takes place.**
- If the distrainer's demand be not satisfied until the day fixed for the sale, the charge for expenses shall be paid by the owner of the property, and may be recovered by the sale of such portion thereof as may be necessary.
- Recovery from owner.**



In every other case it shall be paid by the distrainer, and may be recovered by attachment and sale of his property under the warrant of the Collector of the District or Assistant Collector :

Limit to charge.

Provided that in no case shall a larger amount than ten rupees be recoverable under this section.

81. When a suit has been instituted to contest the demand of a distrainer, and the distrained property has not been released on security, if the demand or any portion of it is adjudged to be due, the Collector of the District or Assistant Collector shall issue an order to the officer authorizing the sale of such property ;

and, on the application of the distrainer within five days from the receipt of such order by the officer, such officer shall publish a second proclamation in the manner prescribed in section sixty-nine, fixing another day for the sale of the distrained property, which shall not be less than five nor more than ten days from the date of the proclamation ;

and, unless the amount adjudged to be due with the costs of distress be paid, shall proceed to sell the property in the manner hereinbefore provided.

82. a. In all suits instituted to contest the distrainer's demand, he shall be required to prove the arrear in the same manner as if he had himself brought a suit for the amount under the provisions hereinafter contained.

b. If the demand or any part thereof is found to be due, the Collector of the District or Assistant Collector shall make a decree for the amount in favor of the distrainer, and such amount may be recovered by sale of the property, as provided in the last preceding section, if the distress has not been withdrawn ;

and, if any balance remain due after such sale, by execution of the decree against the person and any other property of the defaulter,

or if the property have been released on security, by execution of the decree against the person and property of the defaulter and of his surety.

c. If the distress is adjudged to be vexatious or groundless, the Collector of the District or Assistant Collector, besides directing the release of the distrained property, may award such compensation to the plaintiff as the circumstances of the case require.

83. a. If any person claim as his own, property which has been distrained for arrears of rent alleged to be due from any other person, the claimant may institute a suit against the distrainer and such other person, to try the right to the property, in the same manner and under the same conditions as to the time of instituting the suit and to the consequent postponement of sale, as a person whose property has been distrained for an arrear of rent alleged to be due from him, may institute a suit to contest the demand.

b. When any such suit is instituted, the property may be released upon security being given for the value of the same.

c. If the claim is dismissed, the Collector of the District or Assistant Collector shall make an order for the sale of the property, or for the recovery of the value thereof, as the case may be, for the benefit of the distrainer.

d. If the claim is upheld, the Collector of the District or Assistant Collector shall decree the release of the distrained property with costs, and such compensation (if any) as the circumstances of the case require.

e. Provided that no claim to any produce of land liable to distress under this Act, which at the time of the distress may have been found in the possession of a defaulting cultivator, shall bar the prior claim of the person entitled to the rent of the land, nor shall any attachment in execution of a judgment of any Civil Court prevail against such prior claim.

84. If, in any case in which property has been distrained for an arrear of rent, and a suit has been instituted to contest the demand, the right to distrain for such arrears is claimed by or on behalf of any person other than the distrainer, on the ground of such other person being actually and in good faith in the receipt and enjoyment of the



rent of the land, such other person shall be made a party to the suit, and the question of the actual receipt and enjoyment of the rent by him before and up to the time of the commencement of the suit shall be enquired into, and in deciding the suit the result of such inquiry shall be taken into consideration :

Provided that the decision of the Collector of the District or Assistant Collector having of right to sue shall not affect the right of any person who may have a legal title to the rent of the land, to establish his title by suit in the Civil Court if instituted within one year from the date of the decision.

85. If any person whose property has been distrained for the recovery of a demand not justly due, or of a demand due or alleged to be due from some other person, is prevented by any sufficient cause from bringing a suit to contest the demand or to try the right to the property, as the case may be, within the period allowed by section ninety-four, and his property is in consequence brought to sale, he may, nevertheless, institute a suit under this Act to recover compensation for the illegal distress and sale of his property.

86. If any person empowered to distrain property, or employed for the purpose under a written authority by a person so empowered, distrain or sell, or alleged to be due, otherwise than according to the provisions of this Act, or if any distrained property is lost, damaged, or destroyed by reason of the distrainer not having taken proper precautions for the due keeping and preservation thereof, or if the distress is not immediately withdrawn when it is required to be withdrawn by any provision of this Act, the owner of the property may institute a suit under this Act to recover compensation for any injury which he has thereby sustained through any act or omission mentioned in the former part of this section.

87. If any person not empowered to distrain property under section fifty-six, fifty-seven or fifty-nine, nor employed for the purpose under a written authority by a person so empowered, fraudulently distrains or sells, or causes to be sold, any property under color of this Act, the owner of the property so distrained or sold may institute a suit under this Act to recover compensation from such person for any injury which the plaintiff has sustained from the distress or sale,

and the defendant shall be held to have committed criminal trespass, and shall be subject to the penalties provided for that offence by the Indian Penal Code in addition to any damages which may be awarded against him in such suit.

88. Provided that every suit instituted under any of the three last preceding sections shall be commenced within the period allowed by section ninety-four.

89. a. If any person resists a distress of property duly made under this Act, or forcibly or clandestinely removes any distrained property, the Collector of the District or Assistant Collector in charge of the sub-division, upon complaint being made within fifteen days from the date of such resistance or removal, shall cause the person, accused to be arrested and brought with all convenient speed before the Collector or Assistant Collector, who shall, if possible, proceed forthwith to try the case.

b. If the case cannot be at once heard, the Collector of the District or Assistant Collector may, if he think fit, require the party arrested to give security for his person, and, in default of such security, may commit him to the civil jail until the case is tried, and if the offence be proved and the offender be the owner of the property concerned, the Collector of the District or Assistant Collector may order him to be imprisoned in the civil jail for a term not exceeding six months, unless the whole arrear due to the distrainer, with all expenses and costs, is previously to the expiration of such term paid or levied under warrant of the Collector of the District or Assistant Collector by distress and sale of the property of the offender.

c. If the offender be not the owner of the property concerned, he shall make good to the distrainer the value of the same, and shall further be liable to a fine not exceeding one hundred rupees, or, in default of payment thereof, to imprisonment in the civil jail for a period not exceeding two months.

90. All proceedings of officers distraining, or assisting distrainers, or holding sales, under this chapter, shall be subject to the revision and orders of the Collector of the District or Assistant Collector in charge of a sub-division of the District.

Proceedings of officers subject to revision and orders of Collector.

## CHAPTER IV.

### PROCESS.

91. *a.* Every process issued by a Collector of a District or Assistant Collector under this Act shall be under his seal and signature, and shall be served or executed by the Názir, or by such other officer as the Collector of the District or the Assistant Collector may direct, at the cost of the party at whose instance it is issued.

Mode of serving process.

*b.* The amount of such cost, and, in the case of summons to a witness, the sum required for his travelling expenses, shall be deposited in Court before the process is issued :

Deposit before issue.

*c.* Provided that, if in any case the Collector of the District or the Assistant Collector is satisfied that a party is unable to pay the cost of any necessary process, he may direct such process to be served free of charge.

Power to direct service gratis.

92. Any resistance or opposition to the lawful process of a Collector of the District or Assistant Collector under this Act, may be punished by him according to the provisions of the law for the time being in force for the punishment of resistance or opposition to the processes of the Courts of civil justice.

Punishment for resisting process.

When, in any such case, the offender is not present, the Collector of the District or Assistant Collector may summon him to answer to the charge : and if after due service of the summons he fail to attend, may issue a warrant for his apprehension.

Power to issue summons and warrant.

## CHAPTER V.

### JURISDICTION OF COURTS.

93. Except in the way of appeal as hereinafter provided, no Courts other than Courts of Revenue shall take cognizance of any dispute or matter in which any suit of the nature mentioned in this section might be brought, and such suits shall be heard and determined in the said Courts of Revenue in the manner provided in this Act, and not otherwise :—

Suits cognizable by Revenue Courts only.

(*a*) suits for arrears of rent on account of land or on account of any rights of pasturage, forest-rights, fisheries or the like ;

(*b*) suits to eject a tenant for any act or omission detrimental to the land in his occupation or inconsistent with the purpose for which the land was let ;

(*c*) suits to cancel a lease for the breach of any condition binding on the tenant, and which by law, custom or special agreement, involves the forfeiture of the lease ;

(*d*) suits for the recovery of any over-payment of rent, or for compensation under section forty-eight or forty-nine ;

(*e*) suits for compensation for withholding receipt for rent paid ;

(*f*) suits for contesting the exercise of the powers of distress conferred on land holders and others by this Act, or anything purporting to be done in the exercise of the said power, or for compensation for wrongful acts or omissions of a distrainer ;

(*g*) suits by lambardárs for arrears of Government revenue, payable through them by the co-sharers whom they represent, and for village-expenses and other dues for which the co-sharers may be responsible to the lambardár ;

(*h*) suits by co-sharers for their share of the profits of a mahál or any part thereof, after payment of the Government revenue and village-expenses, or for a settlement of accounts ;

(i) suits by muáfidárs, or assignees of the Government revenue, for arrears of revenue due to them as such;

(j) suits by taluquárs and other superior proprietors, for arrears of revenue due to them as such.

94. Suits for arrears of rent or revenue, or for a share of the profits of a mahál or of village-expenses or other dues, shall not be brought after three years from the day on which the arrears or share became due:

Suits relating to distress shall not be brought after three months from the day on which the right to sue accrued:

All other suits must be brought within one year from the day on which the right to sue accrues, unless otherwise specially provided for in this Act.

The day on which the arrears become due or the day on which the right to sue accrues (as the case may be) shall be excluded in computing the periods of limitation prescribed by this section.

95. No Courts other than Courts of Revenue shall take cognizance of any dispute or matter on which any application of the nature mentioned in this section might be made: and such applications shall be heard and determined in the said Courts in manner provided under this Act, and not otherwise:—

(a) Application to determine the nature and class of a tenant's tenure, under section ten.

(b) Application by a landholder, or his agent, to compel a patwár to produce his accounts relating to land.

(c) Application to resume rent-free grants under section thirty, and to assess to rent land previously held rent-free.

(d) Application from a landholder to eject a tenant, under section thirty-five or section thirty-six.

(e) Applications made by a tenant, under section thirty-nine.

(f) Application from a landholder, under section forty, for assistance to eject a tenant.

(g) Application from a tenant or landholder to determine the value of any standing crop, or ungathered products of the earth, belonging to the tenant and being on the land at the time of his ejection, under section forty-two.

(h) Application by a landholder to determine rent payable for land used by a tenant for the purpose of tending or gathering in the crop, under section forty-two.

(i) Application by a landholder or tenant for assistance in the division or appraisal of a standing crop, under section forty-three.

(j) Application by a landholder or tenant to determine compensation for improvements of land.

(k) Application by a tenant for leave to deposit rent.

(l) Application for enhancement of rent.

(m) Application for compensation for wrongful dispossession.

(n) Application for the recovery of the occupancy of any land of which a tenant has been wrongfully dispossessed.

(o) Application for abatement of rent.

(p) Application for leases or counterparts, and for the determination of the rates of rent at which such leases or counterparts are to be delivered.

For the purposes of the Court Fees Act, 1870, applications under clauses (c), (l), (m), (n), (o) and (p) of this section shall be deemed to be plaints in suits.

96. a. All applications under section ninety-five shall be made in the district in which the land, crops or products referred to is or are situate, and may, with the consent of the parties, be referred to arbitration under sections two hundred and twenty to two hundred and thirty-one (both inclusive) of the North-Western Provinces Land-Revenue Act, 1873.

b. All orders passed on applications under section ninety-five shall be proved in the same manner, and when proved shall have the same effect, as if they were judgments of the Civil Courts.

c. In cases wherein a specific sum of money is adjudged to be due, or any costs or damages are awarded, all such orders may be executed by any process in use for the recovery of an arrear of revenue or rent.

d. In cases wherein possession of immovable property is adjudged, the officer making the award may deliver over possession in the same manner, and with the same

power, in regard to contempts, resistance and the like, as may be lawfully exercised by the Civil Courts in execution of their own decrees.

c. Applications under heads (m) and (n) of section ninety-five shall not be brought after six months from the date of the wrongful dispossession.

Power to invest officers with Assistant Collector's powers and withdraw them.

97. The Local Government may invest any officer with the powers of an Assistant Collector of the first or second class under this Act, and may at any time withdraw such powers.

Suits and applications cognizable by Assistant Collectors.

98. Assistant Collectors of either class shall have, as such, power to try suits and applications of the following descriptions :—

(a) suits for arrears of rent on account of land or on account of any rights of pasturage, forest-rights, fisheries or the like ;

(b) suits for compensation for withholding receipts for rent paid, under section forty-eight ;

(c) suits to contest the exercise of the powers of distress conferred on landholders and others by this Act, or anything purporting to be done in exercise of the said powers, or for compensation for wrongful acts or omissions of a distrainer ;

(d) suits by lambardars for arrears of Government revenue, payable through them by the co-sharers whom they represent, and for village-expenses and other dues, for which the co-sharers may be responsible to the lambardar ;

(e) suits by muáfidars or assignees of the Government revenue, for arrears of revenue due to them as such ;

(f) suits by taluqdars or other superior proprietors for arrears of revenue due to them as such ;

(g) applications by a landholder, or by an agent employed by a landholder, to compel the production of accounts by patwáris ;

(h) applications by a tenant or landholder to determine the value of any standing crops or ungathered products of the earth, and being on the land at the time of his ejection, under section forty-two ;

(i) applications by a landholder to determine the amount of rent payable by a tenant using land for the purpose of sowing or gathering in crops, under section forty-two ;

(j) applications by a landholder or a tenant for assistance in the division or appraisal of standing crops, under section forty-three ;

(k) applications by tenants for leave to deposit rent.

Additional suits and applications triable by Assistant Collectors, first class.

99. Assistant Collectors of the first class, in addition to the suits and applications specified in section ninety-eight, shall have power to try suits and applications of the following descriptions :—

(a) suits to eject a tenant for any act or omission detrimental to the land in his occupation, or inconsistent with the purpose for which the land was let ;

(b) suits to cancel a lease for any breach of any condition binding on the tenant ;

(c) suits for the recovery of any over-payment of rent or for compensation, under section forty-eight or section forty-nine ;

(d) suits by co-sharers for their shares of the profits of a mahál or any part thereof, after payment of the Government revenue and village-expenses, or for a settlement of accounts ;

(e) applications by a landholder to eject a tenant, under section thirty-five or section thirty-six ;

(f) applications under section thirty-nine by a tenant contesting notice of ejection ;

(g) applications by a landholder under section forty, for assistance to eject a tenant, on whom notice of ejection has been served ;

(h) applications for compensation for wrongful dispossession ;

(i) applications by a landholder or tenant to determine the amount to be paid as compensation for improvements ;

(j) applications to recover the occupancy of any land from which a tenant has been wrongfully dispossessed by the landholder.

Additional applications triable by Assistant Collector, first class, with special powers.

100. In addition to the powers specified in sections ninety-eight and ninety-nine, an Assistant Collector of the first class specially empowered by Government in this behalf, shall have power to try the following applications :—

(a) applications for enhancement of rent ;

- (b) applications for abatement of rent ;
- (c) applications under section thirty for the resumption of rent-free grants, or for the assessment to rent of land hitherto held rent-free ;
- (d) applications for leases or counterparts, and the determination of the rates of rent at which such leases or counterparts are to be delivered ;
- (e) applications to determine the nature or class of a tenant's tenure.

101. The Collector of the District, or any Assistant Collector in charge of a sub-division of a district, may make over any case, or class of cases, for inquiry and decision, from his own file, to any of his subordinates competent to deal with such case or class of cases under the provisions of this Act.

102. Collectors of Districts, and Assistant Collectors in charge of sub-divisions of districts, may, respectively, withdraw any case or class of cases from any officers subordinate to them, and may deal with such case or class of cases themselves, or refer it for disposal, to any other such Revenue Officer competent to deal with the same under the provisions of this Act.

Powers exercisable by Collector of District. 103. The Collector of the District may exercise

- (a) all powers given by this Act to Collectors of Districts,
- (b) all powers which by this Act are conferred, or can be conferred, on Assistant Collectors.

Investment of officer in charge of sub-division with powers of Collector of District.

The Local Government may invest any officer in charge of a sub-division of a district with all or any of the powers conferred by this Act on a Collector of a District.

Mode of conferring powers.

In conferring powers under this Act, the Local Government may empower persons specially by name, or classes of officials generally by their official titles.

## CHAPTER VI.

### PROCEDURE IN SUITS UP TO JUDGMENT.

104. Suits under this Act shall be instituted in the district in which the subject of the suit, or some part thereof, is situate, and all such suits shall be commenced by presenting to the Court a plaint, which shall contain :—

- (a) the name, description and place of abode of the plaintiff ;
- (b) the name, description and place of abode of the defendant, so far as they can be ascertained ;
- (c) the subject-matter of the claim, and its amount or value computed according to the Court Fees Act, 1870 ; and
- (d) the date on which the right to sue accrued.

Managers of mahals to be, for purpose of litigation, deemed landholders.

105. For the purpose of suing or being sued under this Act, the managers of mahals, whether held under the Court of Wards or under direct management, shall be deemed to be landholders.

106. No co-sharer in an undivided property shall in that character be entitled separately to sue a tenant under this Act, unless he is authorized to receive from such tenant the whole of the rent payable by such tenant.

Suits by co-sharers in undivided property.

107. The plaint shall be presented by the plaintiff, or by an agent duly authorized on his behalf, who has personal knowledge of the facts of the case or by an agent accompanied by a person who has such knowledge.

Plaint by whom presented.

Verification of plaint.

The plaint shall be subscribed and verified at the foot by the plaintiff or his agent in the manner following, or to the like effect :—

"I A. B the plaintiff named in the above plaint, do declare that what is stated therein is true to the best of my knowledge and belief."

If the plaint contains any averment which the person making the verification knows or believes to be false, or does not know or believe to be true, he shall be punishable according to the law for the punishment of giving or fabricating false evidence.

False averment.

Document relied on by plaintiff to be presented with plaint.

108. If the plaintiff rely in support of his claim on any document in his possession, he shall deliver the same to the Court at the time of presenting his plaint.

Unless such document be so delivered, or its non-production be sufficiently excused, or unless the Court see fit to extend the time for producing the same, it shall not afterwards be admitted.

Admission afterwards.

109. If the plaintiff require the production of any document in the possession or power of the defendant, he may, at the time of presenting his plaint, deliver to the Court a description of the document, in order that the defendant may be required to produce the same.

Procuring production of document in possession of defendant.

110. If the suit be for the recovery of an arrear of rent or revenue, or of a share of profits or village-expenses, or other dues under section ninety-three, the plaint shall specify the name of the village and estate, and of the pargana or other local division in which the land is situate :

Plaint in suits for arrears of rent.

and, if the suit be for an arrear of rent alleged to be due from any tenant, the plaint shall also specify the quantity of land, and (where fields have been numbered in a Government survey) the number of each field, and yearly rent of the land ; the amount (if any) received on account of the year for which the claim is made ; and in all cases coming under this section the plaint shall specify the amount in arrear, and the time in respect of which it is alleged to be due.

111. If the suit be for the ejectment of a tenant from any land, the plaint shall describe (as circumstances may require) the extent, situation, and designation of the land ; and, if necessary for its identification, shall set forth its boundaries.

Plaint in suits for ejectment.

112. If the plaint do not contain the several particulars hereinbefore required to be specified therein, or be not subscribed and verified as hereinbefore required, the Court may, at its discretion, return it to the plaintiff, or allow it to be amended.

Return or amendment of plaint.

113. If the plaint be in proper form, the Court, except as otherwise hereinafter specially provided, shall direct the issue of a summons to the defendant ;

Issue of summons.

and if the plaintiff require the personal attendance of the defendant, and satisfy the Court that such attendance is necessary, or the Court of its own accord require such attendance, the summons shall contain an order for the defendant to appear personally on a day to be specified in the summons.

Order for personal attendance or appearance by agent.

If the plaintiff or the Court does not require the personal attendance of the defendant, the summons shall order the defendant to appear either personally or by an agent duly authorized on his behalf, who has personal knowledge of the subject, or is accompanied by a person who has such personal knowledge.

114. The day to be specified in the summons shall be fixed with reference to the state of the file and the distance that the defendant may be, or be supposed to be, at the time from the place where the Court is held,

Fixing of day to be specified in the summons.

and the summons shall order the defendant to produce any document in his possession or power of which the plaintiff demands inspection, or upon which the defendant relies in support of his defence.

Order to produce documents.

Order to bring witnesses.

It shall also direct him to bring with him his witnesses, if they are willing to attend without issue of process, and it shall be in the form (D) contained in the first schedule hereto annexed, or to the like effect.

Form of summons.

115. The summons shall be served by delivering a copy thereof to the defendant personally when practicable ;

or, if the copy cannot be delivered to the defendant personally, by affixing copy of the summons to some conspicuous part of his usual residence, and also affixing a copy of the same in the Court.

116. If the summons be served by delivering a copy to the defendant personally, the Názir shall endorse on the summons the fact of such service.

Endorsement on summons.

If personal service be not effected, the Názir shall endorse on the summons the reason of not serving it personally, and how it has been served.

117. If the usual residence of the defendant be in another district, the summonses together with the cost of the service thereof, shall be sent by the public post to the Collector of such district, who shall issue the summons, and return the same, after service, with the prescribed endorsement, to the officer by whom it was transmitted to him.

Service of summons in another district.

Deposit of cost of serving summons or warrant.

118. The amount of the cost of serving the summons, or, if a warrant be issued as provided in the next following section, of serving the warrant,

shall in all cases be deposited in Court by the plaintiff within such time before the issue of such summons or warrant as is fixed by the Court issuing the process.

If the said amount be not so deposited (except where the Court in exercise of the discretion reserved to it in section ninety-one allows the summons to be served gratis), the case shall be struck off the file of suits ;

Effect of failure to deposit.

but in such case the plaintiff may present another plaint at any time within the period allowed by the rules herein contained for the limitation of suits.

119. a. If in any suit against a tenant for the recovery of an arrear of rent, or in any suit for the recovery of an arrear of revenue, or a share of profits or village-expenses or other dues, the plaintiff desires a warrant of arrest to be issued against the defendant, such defendant being resident within the district in which the suit is instituted, the plaintiff shall present, with his plaint, an application for the issue of such warrant.

b. When such application is presented, the Court shall examine the plaintiff or his agent, according to the law for the time being in force in relation to the examination of witnesses, and inspect the documents adduced by him in support of his claim; and if *prima facie* it appear to the Court that the claim is well founded, and that, if a summons be issued, the defendant will abscond instead of appearing to answer the claim, the Court may issue a warrant for his arrest.

c. The Court shall fix a reasonable time for the return of the warrant, and the officer entrusted with the service thereof shall, at the time of arresting the defendant, deliver to him a notice addressed to the defendant containing the particulars of the claim, and requiring the defendant, if he contest the claim, to bring with him any document upon which he relies in support of his defence.

d. Every warrant issued and notice delivered under this section, shall be respectively in the forms (E) and (F) in the first schedule hereto annexed, or to the like effect.

Procedure after arrest of defendant.

120. If a defendant be arrested under the warrant of arrest, he shall be brought with all convenient speed before the Court.

Procedure when defendant is brought before Court under warrant.

121. When a defendant is brought before the Court under warrant, the Court shall with all convenient speed proceed to try the case in the manner hereinafter provided,

and if the suit cannot be at once adjudicated, the Court may, if it think fit, require the defendant to give security for his appearance whenever the same may be required at any time whilst the suit is pending, or until execution of the final decree which may be passed thereon,

and may commit him to the civil jail to be there detained until he furnishes such security or deposits such sum as the Court orders.

Form of security-bond.

The security-bond shall be in the form (G) contained in the first schedule hereto annexed, or to the like effect.

122. If the defendant cannot be arrested under the warrant, the Court, on the application of the plaintiff, shall either postpone the case for such period as to it seems proper, in order that the plaintiff may apply within the said period for another warrant to be issued for the arrest of the defendant, or shall forthwith issue a proclamation, to be affixed in its own office and at the residence of the defendant, appointing a day for the hearing of the case, which shall not be less than ten days from the date of the publication of the notice at the residence of the defendant.

If the defendant appear in pursuance of the proclamation, he shall be dealt with as provided in the last preceding section.



123. If it appear to the Court that the arrest of the defendant was applied for without reasonable cause, the Court may, in its decree, award to him such sum not exceeding one hundred rupees as it may deem a reasonable compensation for any injury or loss which he has sustained by reason of such arrest, or of his detention in jail during the pendency of the suit.

Compensation for arrest applied for without reasonable cause.

124. If on the day fixed by the summons or proclamation for the appearance of the defendant, or on any subsequent day to which the hearing of the case may be adjourned prior to the recording of an issue for trial as hereinafter provided, neither of the parties appear in person or by an agent, the case may be struck off, with liberty to the plaintiff to bring a fresh suit, unless precluded by the rules herein contained for the limitation of suits.

Consequence of neither party appearing on day fixed.

125. If on any such day the defendant only appear, the Court shall pass judgment against the plaintiff by default, unless the defendant admit the plaintiff's right to the relief which he claims, in which case the Court shall proceed to give judgment for the plaintiff upon such admission without costs :

Judgment by default.

Judgment upon admission of claim.

Proviso.

126. If on any such day the plaintiff only appear, the Court, upon proof that the summons or proclamation has been duly served according to the provisions of this Act, shall proceed to examine the plaintiff or his agent, and after considering the allegations of the plaintiff, and any documentary or other evidence adduced by him, may either dismiss the case or postpone the hearing of it to a future day for the attendance of any witness the plaintiff may wish to call, or may pass judgment *ex parte* against the defendant.

If plaintiff only appear, Court may proceed *ex parte*.

127. If the defendant appear on any subsequent day to which the hearing of the suit is postponed under the last preceding section, the Court may, upon such conditions, if any, as to costs or otherwise as it thinks proper, allow the defendant to be heard in answer to the suit as if he had appeared on the day fixed for his attendance.

If defendant appear on adjourned hearing, Court may allow him to be heard in answer.

128. *a.* No appeal shall lie from a judgment passed *ex parte* against a defendant who has not appeared, or from a judgment against a plaintiff by default for non-appearance.

No appeal from judgment *ex parte* or by default ;

*b.* But in all such cases, if the party against whom judgment has been given appears, either in person or by agent, if a plaintiff, within fifteen days from the date of the Court's decree, and if a defendant, within fifteen days after any process for enforcing the judgment has been executed, or at any earlier period, and shows good and sufficient cause for his previous non-appearance, and satisfies the Court that there has been a failure of justice, the Court may, upon such terms and conditions as to costs or otherwise as it thinks proper, revive the suit and alter or rescind the judgment according to the justice of the case.

But Court may revive suit and alter or rescind judgment.

*c.* But no judgment shall be reversed or altered without previously summoning the adverse party to appear and be heard in support of it.

Adverse party to be summoned.

129. When both parties appear in person or by agent on the day named in the summons, or upon any subsequent day to which the hearing of the case may be adjourned, for sufficient reason to be recorded by the Court, the Court shall proceed to examine such of the parties as may be present, and either party or his agent may cross-examine the other party or his agent.

Examination.

130. If either of the parties be not bound to attend personally, any agent by whom he appears, or any person accompanying such agent, may be examined and cross-examined in like manner as the party himself would have been if he had attended personally.

Examination and cross-examination of agents.

131. At the time of the examination, the defendant may, if he think fit, file a written statement in his defence.

Defendant may file written statement.

132. The examination of the parties or their agents, or such other persons as aforesaid, shall be according to the law for the time being in force relative to the examination of witnesses in the Civil Courts.

Mode of examination.

The substance of the examination shall be reduced to writing in the mother-tongue of the presiding officer, and shall be filed with the record.



Witness produced may be examined.

Document relied on by defendant to be produced at first hearing.

and unless such document be so delivered, or its non-production be sufficiently excused, or unless the presiding officer see fit to extend the time for delivering the same, it shall not afterwards be admitted.

Decree after examination, if no further evidence is required.

properly made without further evidence, the Court shall make its decree accordingly.

136. If on such examination as aforesaid either party be absent and his agent be unable to answer, the Court may postpone the hearing of the case to a future day, and direct that the party whose agent was unable to answer as aforesaid shall attend in person on such day ; and if such party fails to appear in person on the day appointed, the Court may pass judgment as in case of default, or make such other order as it deems proper in the circumstances of the case.

Judgment or order if he fail to appear.

137. If on such examination as aforesaid it appear that the parties are at issue on any question upon which it is necessary to hear further evidence, the Court shall declare and record such issue, and shall fix a convenient day for the examination of witnesses and the trial of the suit ; and the trial shall take place on that day, unless there be sufficient reason for adjourning it, which reason shall be recorded by the Court.

Parties to produce witnesses or procure attendance by summons.

the trial, to enable the witness to be summoned to attend.

Provisions regarding attendance, examination, &c., of witnesses.

in cases before the Civil Courts, shall, except so far as may be inconsistent with the provisions herein contained, apply to suits under this Act.

140. If on the day fixed for the trial of any issue neither of the parties appear, the case may be struck off, with liberty to the plaintiff to bring a fresh suit, unless precluded by the rules herein contained for the limitation of suits.

Case to be struck off if neither party appears.

If on any such day one only of the parties appear, the issue may be tried and determined in the absence of the other party, upon such evidence as may be then before the Court.

141. When suits under this Act are instituted or defended by agents employed in the collection of rent or management of land, in the name and on the behalf of the landholders by whom they are so employed, all the provisions of this Act, by which the personal appearance or attendance of parties to a suit is or may be required, shall be applicable to such agents ;

Provisions to apply when suits are instituted or defended on behalf of landholders by agents.

and anything which, by this Act, is required or permitted to be done by a party in person, may be done by any such agent as aforesaid.

Processes served on such agents.

all purposes in relation to the suit, as if the same had been served on the landholder in person ;

and all the provisions of this Act relative to the service of processes on a party to the suit shall be applicable to the service of processes on such agent.

133. If either of the parties produce a witness on such day, the presiding officer may take the evidence of such witness.

134. If the defendant rely on any document in support of his defence, he shall deliver the same into Court at the first hearing of the suit :

document be so delivered, or its non-production be sufficiently excused, or unless the presiding officer see fit to extend the time for delivering the same, it shall not afterwards be admitted.

135. If after the examination required by section one hundred and twenty-nine, and also the examination of any witness who may attend to give evidence on behalf of either of the parties, and after a consideration of the documentary evidence adduced, a decree can be properly made without further evidence, the Court shall make its decree accordingly.

136. If on such examination as aforesaid either party be absent and his agent be unable to answer any material question relating to the case which the Court is of opinion that the party whom he represents ought to answer, and is likely to be able to answer if interrogated in person, the Court may postpone the hearing of the case to a future day, and direct that the party whose agent was unable to answer as aforesaid shall attend in person on such day ; and if such party fails to appear in person on the day appointed, the Court may pass judgment as in case of default, or make such other order as it deems proper in the circumstances of the case.

137. If on such examination as aforesaid it appear that the parties are at issue on any question upon which it is necessary to hear further evidence, the Court shall declare and record such issue, and shall fix a convenient day for the examination of witnesses and the trial of the suit ; and the trial shall take place on that day, unless there be sufficient reason for adjourning it, which reason shall be recorded by the Court.

138. The parties shall produce their witnesses on the day of trial, and if either party require assistance to procure the attendance of a witness on such day, either to give evidence or to produce a document, he shall apply to the Court in sufficient time before the day fixed for the trial, to enable the witness to be summoned to attend.

139. The law and rules for the time being in force relating to the evidence of witnesses, for procuring the attendance of witnesses and the production of documents, and for the examination, remuneration, and punishment of witnesses, whether parties to the case or not, in cases before the Civil Courts, shall, except so far as may be inconsistent with the provisions herein contained, apply to suits under this Act.

140. If on the day fixed for the trial of any issue neither of the parties appear, the case may be struck off, with liberty to the plaintiff to bring a fresh suit, unless precluded by the rules herein contained for the limitation of suits.

If on any such day one only of the parties appear, the issue may be tried and determined in the absence of the other party, upon such evidence as may be then before the Court.

141. When suits under this Act are instituted or defended by agents employed in the collection of rent or management of land, in the name and on the behalf of the landholders by whom they are so employed, all the provisions of this Act, by which the personal appearance or attendance of parties to a suit is or may be required, shall be applicable to such agents ;

and anything which, by this Act, is required or permitted to be done by a party in person, may be done by any such agent as aforesaid.

Processes served on such agents.

all purposes in relation to the suit, as if the same had been served on the landholder in person ;

and all the provisions of this Act relative to the service of processes on a party to the suit shall be applicable to the service of processes on such agent.

Personal attendance of female plaintiff or defendant when not required.

Parties may employ agents or mukhtárs;

but the employment

Personal attendance when not excused.

and no fee for any Fee for agents not chargeable as costs.

Court may grant time or adjourn hearing.

and may also, from time to time, in order to the production of further evidence, or for other sufficient reason to be recorded by the Court, adjourn the hearing of any case to such day as, to it may seem fit.

145. The presiding officer may, at any stage of a case, cause a local enquiry and Court may cause local enquiry and report, or may itself enquire.

or may himself proceed

Provisions applied to such enquiry.

and, so far as they are applicable, to inquiries made by the presiding officer of the Court in person.

In the latter case the presiding officer, after completing the inquiry, shall record Record in case of inquiry by Court.

146. The defendant in any suit under this Act may pay into Court such sum of Defendant may pay admitted debt and costs into Court.

If the defendant

Plaintiff chargeable with subsequent costs if he proceed and recover no further

No interest to plaintiff after date of deposit by defendant.

148. When in any suit between a landholder and a tenant under this Act, the right to receive rent is disputed, third person who has received it may be made a party.

and the question or such receipt and enjoyment of the rent by such third person may be enquired into, and the suit shall be decided according to the result of such enquiry.

Provided that the decision of the Court shall not affect the right of either party entitled to the rent of such land, to establish his title by suit in the Civil Court, if instituted within one year from the date of the decision.

149. Whenever Court may allow tenant to repair damage caused by certain acts or omissions.

142. A female plaintiff or defendant shall not be required to attend in person, if she be of a rank or class which, according to the custom and manners of the country, would render it improper for her to appear in public.

143. Any party to a suit may employ an authorized agent or mukhtár to conduct the case on his behalf:

but the employment of such agent or mukhtár shall not excuse the personal attendance of the plaintiff or defendant, in cases where his personal attendance is required by the summons, or any order of the Court; agent or mukhtár shall be charged as part of the costs of suit in any case under this Act, unless the Court certify that, under the circumstances of the case, such fee is proper to be allowed.

144. The Court may in any case grant time to the plaintiff or defendant to proceed in the prosecution or defence of a suit,

and may also, from time to time, in order to the production of further evidence, or for other sufficient reason to be recorded by the Court, adjourn the hearing of any case to such day as, to it may seem fit.

145. The presiding officer may, at any stage of a case, cause a local enquiry and report respecting the matter in dispute to be made by any officer subordinate to him, or by any other officer of Government, with the consent of the authority to whom such officer is subordinate, or may himself proceed to the spot and make such local enquiry in person.

The provisions of the law for the time being in force relative to local inquiries by Amíns or Commissioners, under orders of the Civil Courts, shall apply to any local inquiry made by any officer under this section,

and, so far as they are applicable, to inquiries made by the presiding officer of the Court in person.

In the latter case the presiding officer, after completing the inquiry, shall record such observations as appear to him appropriate, and the observations so recorded shall form part of the proceedings in the suit.

146. The defendant in any suit under this Act may pay into Court such sum of money as he thinks a full satisfaction for the demand of the plaintiff, together with the costs incurred by the plaintiff up to the time of such payment, and such sums shall be paid to the plaintiff. deposit less than the sum claimed, and the plaintiff elect to proceed in the case, and ultimately recover no further sum than has been paid into Court, the plaintiff shall be charged with any costs incurred by the defendant in the suit after such payment.

147. No interest shall be allowed to a plaintiff on any sum paid by the defendant into the Court from the date of such payment, whether such sum be in full of the plaintiff's claim, or fall short thereof.

148. When in any suit between a landholder and a tenant under this Act, the right to receive the rent of the land or tenure cultivated or held by the tenant is disputed on the ground that some third person has actually and in good faith received and enjoyed such rent before and up to the time when the right to sue accrued, such third person may be made a party to the suit,

and the question of such receipt and enjoyment of the rent by such third person may be enquired into, and the suit shall be decided according to the result of such enquiry.

Provided that the decision of the Court shall not affect the right of either party entitled to the rent of such land, to establish his title by suit in the Civil Court, if instituted within one year from the date of the decision.

149. Whenever a decree is given for the ejectment of a tenant, or the cancellation of his lease, on account of any act or omission by which the land in his occupation has been damaged, or which is inconsistent with the purpose for which the land has been let, the Court may, if it think fit, allow him to repair such damage within one month from

the date of the decree, or order him to pay such compensation, within such time or make such other order in the case, as the Court thinks fit,

and if such damage be so repaired, or compensation so paid, or order obeyed, the decree shall not be executed.

Delivery of judgment.

150. Every judgment under this chapter shall be pronounced in open Court.

151. The judgment shall be written in the mother-tongue of the presiding officer, and shall contain the reasons for the same, and shall be dated and signed by the presiding officer at the time it is pronounced.

Its language and contents.

Provided that, where his mother-tongue is not English, the judgment may be written

When it may be in English, if he is able to write a clear and intelligible decision in that language.

152. Every officer invested with powers under this Act may hold a Court for hearing and determining suits under this Act in any place within the limits of the district to which he is appointed.

Power to hold Court in any place within district.

Every hearing shall be in open Court, and the parties to the suit or their authorized agents shall have due notice to attend in such place.

## CHAPTER VII.

### PROCEDURE IN EXECUTION OF DECREES IN SUITS.

153. If the decree be for the ejectment of any tenant from land occupied by him, the decree shall be executed by giving the possession or occupancy of the land to the person entitled by the decree thereto.

Mode of executing decrees for ejectment of tenant.

If any opposition

Magistrate to give it effect in case of opposition.

is made to the execution of the order for giving such possession or occupancy, by the party against whom the order is made, the Magistrate, on the application of the Collector of the District or Assistant Collector, shall give effect to the same.

154. If the decree be for the payment of arrears of rent or revenue, or of money, and the defendant has been committed to jail, or appear in Court pursuant to the conditions of any security-bond given under section one hundred and twenty-one, the Collector of the District or Assistant Collector may order that he be detained in, or committed to, the civil jail, unless he immediately pay into Court the amount of the decree with costs, or otherwise comply with the terms of the decree.

Power to order detention in, or commitment to, civil jail, in certain cases.

or Assistant Collector

155. If the judgment-debtor has given security for his appearance, and is not present when judgment is pronounced, and the surety fails to deliver him into custody when required so to do, process of execution may be taken out against the surety in the same manner as if a decree for the amount due by the debtor had been passed against the surety.

Process against surety on failure to deliver judgment-debtor into custody.

Process of execution against person or property, but not both.

156. a. A writ of execution may be issued against either the person or the property of a judgment-debtor ;

but process shall not be issued simultaneously against both person and property.

b. Such writ may be issued on the oral application of the judgment-creditor, his agent, or mukhtár, made at the time the decree is passed, or, thereafter, upon the written application of the judgment-creditor, his agent, or mukhtár.

Applications on which it may issue.

c. Writ of execution against the person or moveable property of a debtor shall be in the form (H) or (I) contained in the first schedule hereto annexed, or to the like effect.

Form of writ of execution.

157. Any moveable property required to be seized under an execution shall, if practicable, be described in a list to be furnished by the judgment-creditor ;

Execution against moveable property.

but, if the creditor is unable to furnish such list, he may apply for a general attachment of the debtor's effects, to the amount of the judgment and costs.

In either case, the property to be seized shall be pointed out to the officer entrusted with execution of the process, by the creditor, or his agent ;

Articles exempted from attachment.

Provided that no implements of husbandry, or cattle actually employed in agriculture, or tools of artisans, shall be attached under this section.

158. Every writ of execution shall bear date on the day on which it is signed by the Collector of the District or Assistant Collector, and shall continue in force for such period as he may direct (not being more than sixty days) calculated from such date.

159. Second and successive writs of execution may be issued by order of the Collector of the District or Assistant Collector on the application of the judgment-creditor, after the expiration of the period fixed for the continuance in force of a previous warrant.

160. Process of execution shall not be issued upon any judgment, without previous notice to the party against whom execution is applied for, if, when application for the issue of the process is made, a period of more than one year has elapsed from the date of the judgment, or from the date of the last previous application for execution.

Execution not to issue against heir or representative of deceased party without notice.

161. Execution on a judgment shall not issue against the heir or other representative of a deceased party, unless notice to appear and be heard has been previously served on such heir or other representative.

No process of execution after three years, unless judgment be for sum exceeding 500 rupees.

162. No process of execution shall be issued on a judgment under this Act, after the lapse of three years from the date of such judgment, unless the judgment be for a sum exceeding five hundred rupees ;

in which case the period within which execution may be had shall be regulated by the general rules in force in respect to the period allowed for the execution of decrees of the Civil Court.

163. If a writ issue for taking any person in execution, the officer charged with the execution of the writ shall bring him with all convenient speed before the Collector of the District or Assistant Collector.

If such person does not then deposit in Court the full amount specified in the writ, or make such arrangement for the payment of the same as is satisfactory to the judgment-creditor,

or satisfy the Collector of the District or Assistant Collector that he has no present means of paying the same amount,

the Collector of the District or Assistant Collector shall send him to the civil jail, there to remain for such time as may be directed by a warrant addressed to the keeper of the jail, unless in the meanwhile he pays the full amount for the payment of which he is liable under the decree:

Provided that the time for which a debtor may be confined in execution of a decree under this Act, shall not exceed three months when the amount decreed (exclusive of costs) does not exceed fifty rupees,

Limit of imprisonment.

or six months when such amount does not exceed five hundred rupees, or two years in any other case.

No person to be imprisoned a second time under same judgment

164. a. Any person once discharged from jail shall not be imprisoned a second time under the same judgment.

b. If the amount due under the decree does not exceed one hundred rupees, the Collector of the District or Assistant Collector may declare such discharged person absolved from further liability under that decree, and such liability shall thereupon be extinguished.

When further liability extinguished.

c. In other cases the discharge shall not extinguish the liability of the discharged person under the decree, or exempt any property belonging to such person from attachment in execution of the same.

When not extinguished.

165. Every person applying for the issue of a warrant of arrest under section one hundred and nineteen, or suing out process of execution against the person of any judgment-debtor, shall deposit in Court, when the warrant issues, diet money for thirty days at such rate not exceeding two annas per diem, as the Collector of the District or Assistant Collector may direct, unless for any special reason he directs that deposit be made at a higher rate, which shall not exceed four annas per diem.

Diet-money to be deposited at time of issue of warrant.

Effect of non-payment of diet-money in advance during imprisonment.

Diet-money spent to be costs in suit.

Refund of remainder.

168. In executing writ against moveable property.

Procedure in executing writ against moveable property.

the day upon which the sale is intended to be held, together with a copy of the said list, at the intended place of sale and at the residence of the debtor.

A copy of the said proclamation and list shall be sent to the Collector of the District or Assistant Collector, and shall be affixed in his office.

169. No moveable property taken in execution under this Act shall be sold before the expiration of ten days next after the day on which such sale of moveable property. property is so taken.

Until such sale the property shall be deposited in some fit place, or it may remain in custody of some fit person approved by the officer executing the writ.

Custody meanwhile.

The provisions of sections seventy-four to seventy-eight (both inclusive) so far as the same are applicable, shall apply to sales under this section.

Provisions applied to sale.

Sale not vitiated by irregularity.

Right to sue for compensation.

Limitation.

170. No irregularity in publishing or conducting a sale of any moveable property under an execution shall vitiate such sale. But any person injured by such irregularity may recover compensation for such injury by suit in the Civil Court : provided that such suit be brought within one year from the date of sale.

171. In the execution of any decree for the payment of arrears of rent or revenue, or of money, under this Act, if satisfaction of the judgment cannot be obtained by execution against the person or moveable property of the debtor, the judgment-creditor may apply for execution against any immovable property belonging to such debtor.

172. If the immovable property against which execution is applied for be other than a mahál, or share of a mahál, process shall be issued in the same manner as for the attachment and sale of moveable property : and the provisions of sections one hundred and sixty-eight, one hundred and sixty-nine and one hundred and seventy shall be applicable.

173. When such property is a mahál, or a share of a mahál, the decree shall be sent for execution to the Collector of the District in which such mahál. property is situate,

and if the judgment-debtor satisfies the Collector of the District that there is reasonable ground to believe that the amount of the judgment-debt may be raised by mortgage of the property, or by letting it on lease, or by disposing by private sale of a portion of the property or any other property belonging to the judgment-debtor, the Collector of the District may, on the application of the judgment-debtor, postpone the sale for such period as the Collector of the District thinks proper to enable the judgment-debtor to raise the amount,

and if the judgment-debtor satisfies his creditor, the execution shall be stayed, and the Collector shall report the fact to the Court by which the decree was made.

174. If the judgment-debtor obtaining a postponement of the sale, fails to satisfy his creditor within the period so fixed, or if the judgment-debtor does not apply for, or applies for but does not obtain, a postponement of the sale, and the Collector of the District considers that the sale of the mahál or share is inexpedient, and that satisfaction of the decree may be made by means of a temporary alienation of the property,

the Collector of the District shall cause an accurate rent-roll of the property to be prepared, and ascertain the annual income derivable therefrom.

If, in the opinion of the Collector of the District, such income is sufficient to pay \*  
Power to transfer property to judgment creditor. off the judgment-debt with interest at six per cent. per annum, within any period not exceeding fifteen years from the date of the decree, he may transfer the property to the judgment-creditor, or if the judgment-creditor refuse to take it, to some other person, or he may hold it under his own management, for such period not exceeding fifteen years, as may be sufficient for the recovery of the debt with interest as aforesaid, and on such conditions as to the payment of such debt and interest as he deems expedient.

Power to hold property under management.

Orders passed under this section and section one hundred and seventy-three shall be subject to revision by the Commissioner of the Division and the Board, but shall not be open to appeal to the Civil Court.

175. If, in the opinion of the Collector of the District, the recovery of the debt under section one hundred and seventy-four is impossible, or if the sale of the property appear to him advisable on other grounds, he shall report, through the Commissioner of the Division, the case for orders to the Board.

176. On the receipt of such report, the Board may make, or cause to be made, such further endeavours for the recovery of the debt under the provisions of section one hundred and seventy-four, as to it may seem practicable.

177. If it appear to the Board that the debt cannot be recovered under section one hundred and seventy-four, or if the sale of the property appear to it advisable on other grounds, it shall order the property to be sold, in which case the sale shall be made under the rules in force for the sale of land for arrears of land revenue, but without prejudice to the incumbrances (if any) to which such property may be subject.

178. If, before the day fixed for any sale of any property under this Act, a third party appear before the Collector of the District or Assistant Collector, and claim a right or interest to or in any of the property, he shall examine such party or his agent, according to the law for the time being in force relative to the examination of witnesses, and if he see sufficient reason for so doing, may stay the sale of such property.

Stay of sale.

179. The Collector of the District or Assistant Collector may adjudicate upon such claim, and make such order as he thinks fit between the claimant and the plaintiff and defendant in the original suit.

In trying such claim, the Collector of the District or Assistant Collector shall be guided by the rules contained in this Act, so far as they may be applicable.

Rules applied.

180. If the claimant fail to establish his right to the property taken in execution, the Collector of the District or Assistant Collector may, at the time of disposing of the case, order him to pay to the judgment-creditor the costs of the proceedings on the claim, and also such sum as he thinks sufficient to cover any loss of interest or damage which the judgment-creditor may have sustained by reason of the postponement of the sale of the property.

181. a. No appeal shall lie from any order passed under section one hundred and seventy-nine or section one hundred and eighty by the Collector of the District.

b. But the party against whom the same is given may bring a suit in the Civil Court to establish his right at any time within one year from the date of the order:

c. Provided that, if the order be for the sale of the property taken in execution, the suit shall not be for the recovery of such property, but shall be for compensation from the judgment-creditor by whom it was brought to sale.

Proviso.

## CHAPTER VIII.

### APPEALS.

#### (A).—From Decrees in Suits.

Judgment of Collector of District or Assistant Collector of first class when final.

182. In suits under this Act, tried and decided by a Collector of a District or an Assistant Collector of the first class, his judgment shall be final, and not open to revision or appeal, except as provided by section one hundred and eighty-nine.

**183.** All decisions of the Assistant Collector of the second class in suits mentioned in section ninety-three shall be appealable to the Collector of the District, whose order thereon shall (subject to the provisions of section one hundred and eighty-nine) be final.

Appeal from decision of Assistant Collector of second class.

Time for presentation.

The petition of appeal shall be presented to the Collector of the District within thirty days from the date of the decree.

**185.** The Collector of the District may either dismiss the petition or may fix a day for hearing the appeal, and in that case he shall cause notice of the same to be served on the respondent in the manner hereinafter prescribed for the service of summons.

Procedure on appeal.

If, on the day fixed for hearing the appeal, or any other day to which the hearing may be adjourned, the appellant does not appear in person or by an agent, the appeal may be dismissed for default.

If the appellant appears and the respondent does not appear in person or by an agent, the appeal may be heard *ex parte*.

**186.** If an appeal be dismissed for default of prosecution, the appellant may, within fifteen days from the date of the dismissal, apply to the Collector of the District to re-admit the appeal.

Re-admission of appeal.

and if it be proved to the satisfaction of the Collector of the District that the appellant was prevented by any sufficient cause from appearing when the appeal was called on for hearing, the Collector of the District may re-admit the appeal.

**187.** After hearing the appeal, the Collector of the District shall give judgment in the manner hereinbefore prescribed for giving judgment in original suits.

Judgment in appeal.

**188.** In suits in which the judgment of the Collector of the District or Assistant Collector is final, as provided in section one hundred and eighty-two, he may, upon the application of either party, if preferred within thirty days from the date of the decision, order the re-hearing of a suit, upon the ground of the discovery of new evidence or matter material to the issue of the case, which the applicant had no knowledge of, or could not produce, at the time of trial.

**189.** An appeal shall lie to the District Judge from the decision of the Collector of the District or Assistant Collector of the first class, in all suits mentioned in section ninety-three,

Appeal to District Judge.

in which the amount or value of the subject-matter exceeds one hundred rupees, or in which the proprietary title to land has been determined between parties making conflicting claims thereto:

Provided that, where the amount or value of the subject-matter of the suits exceeds five thousand rupees, the appeal shall lie to the High Court.

Appeal to High Court.

**190.** The rules for the time being in force in regard to the time within which appeals from the decisions of Civil Courts may be received, and to the manner in which such appeals are heard and determined, and to all proceedings which may be had in respect of such appeals, shall be applicable to appeals to the District Judge or High Court under this Act.

**191.** The decisions of District Judges passed in regular appeal under this Act, shall be open to special appeal to the High Court, in the same manner, and subject to the same rules, as the decisions of District Judges passed in regular appeal are open to special appeal under the Code of Civil Procedure and the Indian Limitation Act, 1871.

Special appeal to High Court from District Judge.

(B).—From Orders on Applications or relating to the Execution of Decrees.

(1) Assistant Collectors of the Second Class.

Appeal from Assistant Collector of second class.

**192.** An appeal to the Collector of the District shall lie from all orders passed under this Act by an Assistant Collector of the second class.

(2) Assistant Collectors of the First Class.

Appeal from orders of Assistant Collectors of first class on certain applications.

**193.** An appeal to the Commissioner of the Division shall lie from all orders passed by an Assistant Collector of the first class,



(a) on applications under section ninety-nine, where the amount or value of the subject-matter exceeds one hundred rupees,

(b) on applications under section one hundred.

Appeal from other orders of Assistant Collector of first class. 194. An appeal to the Collector of the District shall lie from all other orders passed under this Act by an Assistant Collector of the first class, except—

(a) orders on applications mentioned in section ninety-eight;

(b) orders on applications mentioned in section ninety-nine;

(c) orders passed in the course of a suit and relating to the trial thereof.

Final orders of Assistant Collector of first class. 195. The orders of an Assistant Collector of the first class on the following applications shall be final—

(a) applications mentioned in section ninety-eight;

(b) applications mentioned in section ninety-nine, where the amount or value of the subject-matter does not exceed one hundred rupees.

### (3) *Collector of the District.*

Appeal from certain orders of Collector of District. 196. An appeal to the Commissioner of the Division shall lie from orders passed by the Collector of the District,

(a) under section ninety-nine, when the amount or value of the subject-matter exceeds one hundred rupees,

(b) under section one hundred.

In all other cases orders under this Act passed by the Collector of the District shall be final, subject to review by the Commissioner of the Division or the Board.

### (4) *Commissioner of the Division.*

197. Save as provided by section one hundred and ninety-eight, the orders of the Commissioner of the Division on appeals shall be final, subject to review by the Board.

198. An appeal from the decisions of the Commissioner of Division on appeals against orders passed by the Collector of the District or Assistant Collector on the applications mentioned in section one hundred shall lie to the Board, except where the Commissioner of the Division dismisses the appeal.

In such case the provisions of section one hundred and ninety-nine shall apply.

199. The Board may at any time call for any case which has come before any Commissioner of Division, or any Court subordinate to him, and pass such orders thereon, consistent with this Act, as the Board thinks fit.

200. No appeal shall be brought to the Collector of the District after the expiration of thirty days, or to the Commissioner of the Division after the expiration of sixty days, or to the Board of Revenue after ninety days, from the date of the order complained of.

201. Any appeal under this Act may be admitted after the period of limitation prescribed therefor when the appellant satisfies the officer to whom he appeals that he had sufficient cause for not presenting the appeal within such period.

No appeal shall lie against an order under this section admitting an appeal.

## CHAPTER IX.

### MISCELLANEOUS.

Time to be excluded in computing limitation period. 202. In computing the period of limitation prescribed for any suit under this Act, the day on which the right to sue accrued shall be excluded.

In computing the period of limitation prescribed for any appeal under this Act, the day on which the judgment or order complained of was pronounced, and the time requisite for obtaining a copy of the decree or order appealed against, shall be excluded.



**203.** Whenever a Court is closed on the last day of any period provided in this Act for the presentation of any memorandum of appeal, or for the deposit or payment of any money in or into Court, the day on which the Court re-opens shall be deemed to be such last day.

Rule as to last day for presentation or deposit, when Court is closed on such day.

**204. a.** If in any suit instituted, or on any application made, under this Act, it appears to the presiding officer that any question in issue involving a point of law is more proper for the decision of a Civil Court, such officer, if a Collector of a District, or the Collector of the District on the representation of such officer, may cause a case to be stated for the opinion of the District Judge, who shall hear the case in such manner as nearly as may be as is prescribed for the hearing of cases by the High Court by sections twenty-four, twenty-five and twenty-six of Act No. XI of 1865.

**b.** If the District Judge finds that the case is insufficiently stated, he may return it to the Collector of the District for amendment.

**c.** Subject to any limits of value, or time provided by law for cases falling under the Code of Civil Procedure, an appeal shall lie from the judgment of the District Judge to the High Court.

**d.** The District Judge shall return the case with the opinion of the Civil Court to the Collector of the District, and the Revenue Courts shall decide the suit or application in accordance with such opinion.

**e.** The costs attending such case shall be dealt with as costs in the suit or on the application in the Revenue Court.

**205. a.** If in any suit instituted, or on any appeal presented, in a Civil or Revenue Court, the Judge or presiding officer doubts whether he is precluded by this Act from taking cognizance of the suit or appeal, he may refer the matter to the High Court.

Power to refer to High Court questions as to jurisdiction.

**b.** On any such reference being made, the High Court may order the Judge or presiding officer, either to proceed with the case, or to return the plaint or appeal for presentation in such other Court as it may in its order declare to be competent to take cognizance of the suit or appeal.

**c.** The order of the High Court on any such reference shall be final, and shall not be questioned by the same parties in the same suit.

**206.** In all suits instituted in any Civil or Revenue Court, in which an appeal lies to the District Judge or High Court, an objection that the suit was instituted in the wrong Court shall not be entertained by the appellate Court, unless such objection was taken in the Court of first instance; but the appellate Court shall dispose of the appeal as if the suit had been instituted in the right Court.

Procedure where objection that suit was instituted in wrong Court was not taken in Court of first instance.

**207.** If, in any such suit, such objection was taken in the Court of first instance, but the appellate Court has before it all the materials necessary for the determination of the suit, it shall dispose of the appeal as if the suit had been instituted in the right Court.

Procedure where such objection was taken Court of first instance.

**208.** If in any such suit the appellate Court has not before it the materials necessary for the determination of the suit, it shall proceed under the provisions of the Code of Civil Procedure relating to appeals; but if it remands the suit, or frames and refers issues for trial, or requires additional evidence to be taken by the Court of first instance, it may direct its order, either to the Court in which the suit was instituted, or to the Court it may hold competent to entertain the suit, whichever course it may deem most conducive to justice,

Procedure where, in such cases, the appellate Court has not materials for determining the suit.

and the objection that the order of a subordinate appellate Court has been directed to a Court which was not competent to entertain the suit shall not be taken on special appeal.

**209.** In any suit brought by a co-sharer against a lambardār for a share of the profits, the Court may award to the plaintiff not only a share of the profits actually collected, but also a sum equal to the plaintiff's share in the profits which, through gross negligence or misconduct, the lambardār has omitted to collect.

Suits by co-sharer against lambardār for share of profits.

210. In any suit brought by a tenant against a landholder to recover possession of a holding, the plaintiff may join as a defendant to the suit any other person in possession of the holding, who may claim title through the landholder.

Tenant's power to implead persons claiming through landholder.

In any suit brought by a landholder to eject a tenant, the plaintiff may join as a defendant to the suit any other person in possession of the holding, who may claim title through the tenant.

Landholder's power to implead persons claiming through tenant.

211. The Local Government may from time to time make rules consistent with this Act—

- (a) for the guidance of officers in determining, under sections thirteen, fourteen, fifteen, seventeen, eighteen, and twenty, the rent payable by tenants,
  - (b) for the guidance of officers assessing rent under section thirty,
  - (c) as to the dates on which instalments of rent shall fall due,
  - (d) as to the procedure to be followed on all applications under section ninety-five.
- All such rules shall be published in the local official Gazette, and shall thereupon have the force of law.

The Board with the previous sanction of the Local Government, may from time to time make rules consistent with the provisions herein contained, for the guidance of all persons in matters connected with the enforcement of this Act.

Power of Board to make rules.

212. When the Local Government has made a rule fixing the date on which any instalment of rent shall fall due, no such instalment shall, for the purposes of this Act, be deemed to be in arrear unless it remains unpaid after the date fixed by such rule.

Instalments when to be deemed in arrear.

#### THE FIRST SCHEDULE.

##### FORM A. (See section 51.)

I, *A. B.*, of \_\_\_\_\_, solemnly declare that I did personally [or by my agent *C. D.*], on the \_\_\_\_\_ day of \_\_\_\_\_, tender payment to *E. F.* of the sum of rupees \_\_\_\_\_ as and for the whole amount due from me on account of rent from the month of \_\_\_\_\_ to the month of \_\_\_\_\_ both inclusive. I further declare that the said *E. F.* refused to accept the sum so tendered and to give a receipt in full for the same, and I declare that, to the best of my belief, the sum of rupees \_\_\_\_\_ so tendered, and which I now desire to pay into Court, is the full amount I owe the said *E. F.*, and I hereby apply for leave to pay the same accordingly.

##### FORM B. (See section 52.)

Court of the Collector of \_\_\_\_\_, dated the \_\_\_\_\_ day of \_\_\_\_\_  
To *E. F.*, &c.

With reference to the written declaration of *A. B.*, you are hereby informed that the sum of rupees \_\_\_\_\_ therein mentioned is now in deposit in this Court, and that the above sum will be paid to you, or to your duly authorized agent, on application.

[This is to be written on a copy of the declaration in Form A made by the person paying the money into Court.]

##### FORM C. (See section 69.)

##### FORM OF NOTICE TO OWNER OF DISTRAINED PROPERTY.

Office of \_\_\_\_\_ Commissioner for sale of distrained property.

*A. B.*, Distraigner.

[Name, description, and address of the owner of the property.]

Whereas the said *A. B.* has applied to have the distrained property specified below sold for the recovery of \_\_\_\_\_ alleged to be due to him as arrears of rent, you are hereby

required, either to pay the said sum to the said *A. B.*, or to institute a suit before the Collector to contest the demand within fifteen days from the receipt of this notice, failing which the property will be sold.

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 187 .

FORM D. (*See section 114.*)

FORM OF SUMMONS TO DEFENDANT.

No. \_\_\_\_\_ (of suit) dated \_\_\_\_\_

In the Court of \_\_\_\_\_

*A. B.*, Plaintiff.

[*Name, description, and address of plaintiff.*]

*C. D.*, Defendant.

[*Name, description, and address of defendant.*]

Whereas the said *A. B.* has brought a claim against you in this Court for (*here specify particulars of claim as given in the plaint*), you are hereby required to appear in person in this Court on the \_\_\_\_\_ day of \_\_\_\_\_ [*if not specially required to appear in person, state, "in person, or by an agent who has personal knowledge of the subject or who shall be accompanied by a person who has such knowledge"*] to answer the abovenamed plaintiff, and you will bring with you (or send by your agent) [*here mention any document the production of which may be required by the plaintiff*] which the plaintiff desires to inspect, and all documents on which you may intend to rely in support of your defence. You will also bring with you your witnesses, if they are willing to attend without issue of process.

FORM E. (*See section 119.*)

FORM OF WARRANT OF ARREST.

No. \_\_\_\_\_ (of suit) dated \_\_\_\_\_

In the Court of \_\_\_\_\_

*A. B.*, Plaintiff.

*C. D.*, Defendant.

To the Nazir of the Court of the Collector of \_\_\_\_\_

Whereas the plaintiff in this suit has obtained an order from the Court for the arrest of the defendant, you are hereby commanded to bring the defendant before the Court on or before the day of \_\_\_\_\_ to be dealt with according to law.

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 187 .

FORM F. (*See section 119.*)

FORM OF NOTICE TO ACCOMPANY SUCH WARRANT.

In the Court of \_\_\_\_\_

*A. B.*, Plaintiff.

[*Name, description, and address of plaintiff.*]

*C. D.*, Defendant.

[*Name, description, and address of defendant.*]

Whereas the said *A. B.* has brought a claim against you in this Court for (*here specify particulars of claim as given in the plaint*) and has obtained a warrant for your arrest, you are hereby required, unless you admit the claim, to bring with you to the Court all documents on which you may intend to rely in support of your defence.

FORM G. (*See section 121.*)

FORM OF SECURITY-BOND FOR APPEARANCE OF DEFENDANT.

Whereas *A. B.*, plaintiff, has instituted a suit in the Court of the Collector of \_\_\_\_\_ against *C. D.*, defendant, and the said *C. D.* has been required to give security for his appearance at any time when called on while the suit is pending and until execution of the decree, I, *E. F.*, hereby declare myself surety for the said *C. D.*'s appearance as aforesaid, and in case of his

making default in such appearance, I engage to pay any sum for the payment of which the said *C. D.* may be liable under the decree. *If the suit be for the delivery of papers or accounts, specify some sum to be fixed by the Collector.*

FORM H. (See section 156.)

WRIT OF EXECUTION AGAINST THE PERSON.

*A. B., Plaintiff.*

*C. D., Defendant.*

To the Názir of the Court of the Collector of

Whereas the said *C. D.* was directed by a decree of this Court, under date the \_\_\_\_\_ day of \_\_\_\_\_ 187\_\_\_\_, to pay to *A. B.* the sum of \_\_\_\_\_ and \_\_\_\_\_ for costs of suit, amounting to \_\_\_\_\_, and whereas the said *C. D.* has omitted to pay the same, you are hereby commanded to apprehend the said *C. D.*, and to bring him with all convenient speed before this Court to be dealt with according to law.

FORM I. (See section 156.)

WRIT OF EXECUTION AGAINST THE EFFECTS.

*A. B., Plaintiff.*

*C. D., Defendant.*

To the Názir of the Court of the Collector of

Whereas *C. D.* was directed by a decree of this Court, under date the \_\_\_\_\_ day of \_\_\_\_\_ 187\_\_\_\_, to pay to *A. B.* the sum of \_\_\_\_\_ and \_\_\_\_\_ for costs of suit, amounting to \_\_\_\_\_, and whereas the said *C. D.* has omitted to pay the same, you are hereby commanded to levy the said sum of \_\_\_\_\_, and the sum of \_\_\_\_\_ for costs of executing this process, by seizure and sale of such moveable property of the said *C. D.* as (is described in the list annexed, and) [*if no list is furnished, these words to be omitted*] shall be pointed out to you by the judgment-creditor or his agent; and you are hereby ordered to sell such property of the said *C. D.*, on some convenient day, not being less than ten nor more than fifteen days from the day of seizure, unless the amount leviable as aforesaid shall be sooner paid; and you are hereby commanded to certify to me what you shall do by virtue of this warrant.

THE SECOND SCHEDULE.

(See section 1.)

- I. The province of Kumaon and Garhwál.
- II. The Terai Parganas, comprising—Bázipúr, Káshípúr, Jaspúr, Rudarpúr, Gadarpúr, Kílupúrí, Nanak-Mattha, and Bihleri.
- III. In the Mirzapúr District:—
  - (1.) The tappás of Agori Khás and South Kon in the Pargana of Agori.
  - (2.) The tappá of British Singrauli in the Pargana of Singrauli.
  - (3.) The tappás of Phulwá Dudhí and Barhá in Pargana of Bichipár.
  - (4.) The portion lying to the South of the Kaimor Range.
- IV. The Family Domains of Maharájá of Benares comprising the following parganas:—
  - Bhadohi and Kheyra Mángror in the Mirzapúr District,
  - Kaswá Rajá in the Benares District.
- V. The tract of country known as Jaunsar Báwar in the Dehra Dhún District.

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## THE NORTH-WESTERN PROVINCES LAND REVENUE ACT, 1873.

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## ACT XIX OF 1873.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 22nd December 1873.)

*An Act to consolidate and amend the Law relating to Land-Revenue and the jurisdiction of Revenue Officers in the North-Western Provinces.*

WHEREAS it is expedient to consolidate and amend the law relating to land-revenue and the jurisdiction of Revenue Officers in the North-Western Provinces of the Presidency of Fort William in Bengal; It is hereby enacted as follows:—

## CHAPTER I.

## PRELIMINARY.

Short title. 1. This Act may be called "The North-Western Provinces Land-Revenue Act, 1873 :"

Local extent. It extends in the first instance to all the territories for the time being under the government of the Lieutenant-Governor of the said Provinces, except those specified in the first schedule hereto annexed;

But the Local Government may, by notification in the official Gazette, extend the whole or any part of this Act to all or any of the territories so excepted.

Commencement. This Act shall come into force on the passing thereof.

Enactments repealed. 2. The Regulations and Acts mentioned in the second schedule hereto annexed are repealed to the extent specified in the third column thereof.

But all rules prescribed, appointments made, powers conferred, and notifications published under any such enactment, and all other rules (if any) now in force and relating to any of the matters hereinafter dealt with, shall (so far as they are consistent with this Act) be deemed to have been respectively prescribed, made, conferred and published hereunder.

And all proceedings now pending which have been commenced under any enactment hereby repealed, shall be deemed to be commenced under this Act, except where a decree has been made or an appeal presented.

Interpretation-clause. 3. In this Act—unless there be something repugnant in the subject or context,

'Mahál.' (1.) "Mahál" means—

(a) any local area held under a separate engagement for the payment of the land-revenue, and for which a separate record-of-rights has been framed, and

(b) any local area of which the revenue has been assigned or redeemed, and for which a separate record-of-rights has been framed:

'Collector of a District.' (2.) "Collector of a District" means the chief officer in charge of the revenue administration of a District:

'Commissioner of a Division.' (3.) "Commissioner of a Division" means the chief officer in charge of the revenue administration of a Division:

'Rent.' (4.) "Rent" means whatever is to be paid, delivered or rendered by a tenant on account of his holding, use or occupation of land:

'Sir-land.' (5.) "Sir-land" means—

(a) land recorded as sir at the last settlement of the district in which it is situate, and continuously so recorded since; or,

(b) land continuously cultivated for twelve years by the proprietor himself with his own stock, or by his servants, or by hired labor; or,

(c) land recognised by village-custom as the special holding of a co-sharer, and treated as such in the distribution of profits or charges among the co-sharers :

(6.) "Annual value" means double the amount of the revenue, or, in the case of maháls permanently assessed or exempt from the payment of revenue, double the amount that would be assessable on such maháls if they were liable to assessment or revision of assessment :

(7.) "Incumbrance" means a charge upon or claim against land arising out of private contract :

(8.) "Agricultural year" means a year commencing on the first day of July, and ending on the thirtieth day of June :

(9.) "Revenue Court" means all or any of the following authorities (that is to say) : the Board of Revenue of the North-Western Provinces, and all members thereof, Commissioners, Collectors, Assistant Collectors, Settlement Officers, Assistant Settlement Officers and Tahsildárs :

(10.) "Revenue-free" applies to land whereof the revenue has either wholly or in part been released, compounded for, redeemed or assigned :

(11.) "Board" means the Board of Revenue of the North-Western Provinces :

(12.) "Minor" means a person who has not completed his age of eighteen years.

## CHAPTER II.

### CONSTITUTION AND POWERS OF REVENUE OFFICERS.

Chief controlling authority in revenue matters. 4. The chief controlling authority in all matters connected with the land-revenue of the said territories is vested in the Board, subject to the Local Government.

Subject to the orders of the Local Government, the Board shall sit in any place in the North-Western Provinces that it thinks fit, and it shall have the powers conferred by chapter VII of this Act on Commissioners of Divisions.

Appointment and removal of Members of Board. 5. The Local Government, with the previous sanction of the Governor-General in Council, shall appoint, and may from time to time remove the Members of the Board.

Power to distribute business. 6. With the previous sanction of the Local Government, and subject to rules which it may from time to time prescribe, the Board may distribute its business and make such territorial division of its jurisdiction amongst its Members as to the Board may seem fit.

All orders made or decrees passed by a Member of the Board, in accordance with such distribution or division, shall be held to be the orders or decrees (as the case may be) of the Board.

Alteration or reversal of orders. 7. No decree or order coming under the consideration of the Board on appeal or on being called for or reported for orders under section two hundred and fifty-three or section two hundred and fifty-four, shall be altered or reversed without the concurrent judgment of two Members of the Board.

Reference to Local Government in case of difference of opinion. 8. When the Members of the Board are equally divided in opinion as to any order to be made in the course of its non-judicial business, the question regarding which there is such division shall be referred for decision to the Local Government.

Power of Board to review and alter its orders and decrees. 9. The Board may review, and may rescind, alter or confirm, any order made by itself, or by any of its Members, in the course of its non-judicial business.

But no decree passed judicially by it or by any of its Members shall be so reviewed except on the application of a party to the cause, within ninety days from the passing of the decree, or, if good cause be shown, within any longer period.

Members not empowered to alter each other's orders. A single Member vested with all or any of the powers of the Board shall not have power to alter or reverse a decree or order passed by the Board or by any Member other than himself.

10. Notwithstanding anything hereinbefore contained, the Local Government may authorize any Member of the Board to perform or exercise, either generally or in any particular locality, all or any of the duties and powers imposed and conferred on the Board.

Power to authorize Member to exercise powers of Board.

11. The Local Government shall appoint in each Division a Commissioner, who shall within his Division exercise the powers and discharge the duties conferred and imposed on a Commissioner of Division under this Act, or under any other law for the time being in force, and who shall, subject to the control of the Board, exercise authority over all the Revenue Officers in his Division.

Commissioners of Division.

12. The Local Government shall appoint in each district an officer who shall be the Collector of the District, and who shall exercise, throughout his district, all the powers and discharge all the duties conferred and imposed on a Collector or an Assistant Collector by this Act or any other law for the time being in force.

Collector of the District.

The Local Government may confer on any Assistant Collector in charge of a Sub-division of a District all or any of the powers of a Collector of a District, and all powers so conferred shall be exercised subject to the control of the Collector of the District.

13. The Local Government may appoint to each district as many other persons as it thinks fit to be Assistant Collectors of the first or second class.

Assistant Collectors.

All such Assistant Collectors, and all other persons employed in maintaining revenue-records or otherwise in or about the business of the land-revenue, shall be subordinate to the Collector of the District.

14. The Local Government may from time to time alter the limits of any Division, District or Tahsíl, and may divide any district into Sub-divisions, and from time to time alter the limits of such Sub-divisions.

Power to alter limits of Divisions, &c., and to form Sub-divisions.

All existing tahsís shall be Sub-divisions of Districts until they are so altered.

15. The Local Government may place any Assistant Collector of the first class in charge of one or more Sub-divisions of a District, and may at any time remove him therefrom.

Assistant Collector in charge of Sub-division of District.

Such Assistant Collector shall be called an Assistant Collector in charge of a Sub-division of a District, and shall exercise the powers conferred upon him by this Act or by any other law for the time being in force, subject to the control of the Collector of the District.

The Local Government may, from time to time, delegate its powers under this section to the Collector of the District, and may revoke such delegation.

16. Every officer of a Sub-division of a District employed in maintaining revenue-records or otherwise in or about the business of the land-revenue shall be subordinate to the Assistant Collector (if any) in charge of such Sub-division, subject to the general control of the Collector of the District.

Subordination of Revenue Officers.

17. In conferring powers under this Act, the Local Government may empower persons by name, or classes of officials generally, by their official titles.

Conferring of powers.

18. The Collector of the District, or any Assistant Collector in charge of a Sub-division of a District, or Officer in charge of a Settlement, may make over any case, or class of cases, arising under the provisions of this Act or otherwise, for enquiry or decision from his own file to any of his subordinates competent to deal with such case or class,

Transfer of cases to subordinates.

or may withdraw any such case or class of cases from any Revenue Officer subordinate to him, and may deal with such case or class himself, or refer the same for disposal to any other such Revenue Officer competent to deal therewith.

Power to withdraw cases from subordinates.

Power to vary and cancel powers.

19. The Local Government may vary or cancel any order conferring powers under this Act.

20. If the Collector of the District dies, or is disabled from performing his duties, the officer who succeeds temporarily to the chief executive administration of the district in revenue matters shall be held to be the Collector of the District under this Act until the Local Government appoints a successor to the Collector so dying or disabled, and such successor takes charge of his appointment.

Collector of the District in case of temporary vacancy.

21. Whenever any person holding an office in the service of Government, who has been invested with any powers under this Act in any district, is transferred to another district, transferred to an equal or higher office of the same nature within another district, he shall, unless the Local Government otherwise directs, be held to be invested with the same powers in the district to which he is so transferred.

22. Tahsildárs shall be appointed by the Board, subject to such rules as to qualification or otherwise as the Board, subject to the sanction of the Local Government, may from time to time make under section two hundred and fifty-seven.

23. The Collector of the District, with the sanction of the Board, may arrange all the villages of such district in patwáris' circles, and may, from time to time, alter the limits of such circles.

But no such arrangement or alteration shall be final unless and until it has been sanctioned by the Board.

Appointment of patwári to each circle.

24. A patwári shall be appointed to each circle, whether the maháls in such circle are assessed to revenue or not.

25. Whenever a circle is without a patwári, the proprietors of such circle, or their representatives in interest, shall, in accordance with local custom, nominate a person to be such patwári, and he shall be appointed by the Collector of the District, or Assistant Collector.

Which nominee to be appointed in case of disagreement.

26. In case of disagreement as to the nominee, the Collector or Assistant Collector shall ascertain the local custom, if any, and shall appoint the person nominated in accordance therewith.

Where no such custom can be ascertained, the Collector or Assistant Collector shall appoint the nominee of those proprietors who represent the largest amount of annual value in the circle, or of their representatives in interest.

If a mahál is held under direct management, or if the proprietor of a mahál be under the charge of the Court of Wards, the Collector of the District or Assistant Collector, shall be held to be the proprietor for the purpose of nominating a patwári under this section.

27. If the persons in whom the nomination is vested neglect to nominate a successor to the patwári within fifteen days from the occurrence of the vacancy, the Collector of the District or Assistant Collector shall call on them by notice to make the nomination, and, if they fail to do so within fifteen days from the receipt of notice, the Collector of the District or Assistant Collector shall make the appointment.

28. If the person or persons in whom the nomination is vested neglect to follow the local custom, the Collector of the District or Assistant Collector shall refuse to appoint the nominee; and if no fit person be nominated within fifteen days from the date of the notification of such refusal, he shall himself appoint a person to the vacant office:

Provided that the Collector of the District or Assistant Collector, in making the appointment under this and the last preceding section, shall always give preference to any member of the late patwári's family, qualified to perform the duties of the office.

29. A rate may be imposed by order of the Collector of the District, on the annual value, or on the cultivated area, of all the maháls composing the circle of each patwári, or partly in the one way, and partly in the other, for defraying the salary of such patwári, and any charges incurred on account of any additional establishment required for the proper supervision, maintenance and correction of the patwári's records.

30. The amount of the rate to be imposed under section twenty-nine in any district or Sub-division of a District, shall be determined by the Board under the orders of the Local Government:

Provided that such rate shall not exceed three per cent. on the annual value of the rated mahál, and that the amount to be imposed on each mahál shall be fixed in the temporarily settled districts for the term of settlement, and in permanently settled districts for thirty years, or such shorter period as the Local Government may direct.

Collection of rate.

31. The rate shall be collected with the revenue, and shall, in case of default, be recoverable by the same process as arrears of revenue.

Salaries of patwāris.

32. The salaries of the patwāris shall from time to time be fixed by the Board under the orders of the Local Government.

Appointment of Kánúngo and filling vacancies among them.

33. One or more Kánúngos may be appointed in each tahsil for the proper supervision, maintenance and correction of the patwāri's records.

In case of a vacancy in the office of a Kánúngo, preference shall be given to some duly qualified member of a family in which the office of Kánúngo of the tahsil or any part thereof is hereditary.

If no such qualified member can be found, then one of the patwāris of the tahsil shall, if duly qualified, be appointed to the vacancy, and failing any person duly qualified among them, some other fit and competent person shall be appointed thereto.

Amount of Kánúngos' salaries.

34. The salaries of the Kánúngos shall from time to time be fixed by the Local Government.

Kánúngos and patwāris to be public servants, and their records public records.

35. Every Kánúngo and patwāri, and every person appointed temporarily to discharge the duties of any such officer, shall be deemed to be a public servant within the meaning of the Indian Penal Code,

and all official records and papers kept by any such officer shall be held to be public records and the property of Government.

### CHAPTER III.

#### SETTLEMENT.

36. Whenever the Local Government thinks that any district or other local area liable to be brought under settlement should be so brought, it shall publish a notification specifying such area,

and if it thinks that a record-of-rights in land, whether permanently settled, temporarily settled, or revenue free, should be prepared for any district or local area, it shall publish a notification to that effect.

37. Every local area shall be held to be under settlement from the date of any notification published under section thirty-six and relating thereto until the issue of another notification declaring settlement operations to be closed therein.

Every district or other local area under settlement at the time of the passing of this Act, shall be held to be under settlement within the meaning of this section without the issue of the notifications prescribed by section thirty-six.

38. The Local Government may from time to time appoint an officer to be in charge of the settlement of one or more districts, or part of a district, and as many Assistant Settlement Officers as to it may seem fit; and such officers shall exercise the powers conferred upon them by this Act so long as such district, part of a district or districts is or are under settlement.

39. The Local Government shall from time to time, with the previous sanction of the Governor-General in Council, frame and issue rules regarding the mode in which the revenue demand is to be assessed.

40. When any district, or part of a district, is under settlement, the Settlement Officer shall have power to call upon all proprietors, by proclamation to be stuck up in some conspicuous place in each village, to erect within fifteen days such boundary-marks as he may think necessary to define the limits of their villages, mahals, or fields; and in default of their compliance within the time specified in the notice, he may cause such boundary-marks to be erected, and he shall recover the cost of the erection from the proprietors as if it were an arrear of revenue.

In case of dispute concerning any boundary-marks, the Settlement Officer shall decide such dispute on the basis of possession, or may refer it to arbitration, for decision on the merits as provided for in section two hundred and twenty to section two hundred and thirty-one (both inclusive).

41. All Settlement Officers and all officers in charge of a survey made in connection with the revenue, and their assistants, servants, agents and workmen, may do all acts necessary for any purpose connected with the settlement or survey, as the case may be.

Power of settlement and survey officers to do necessary acts.

42. The Settlement Officer may order all persons, whose presence is in his opinion necessary for any of the purposes of this chapter to attend at any specified time and place, and to produce any written document in their possession or power; and all such persons shall be legally bound to obey such order.

Power to require attendance of persons concerned, and production of documents.

43. The settlement shall be made with the proprietor of the land; or, if the proprietor have transferred possession of his land to a mortgagee or conditional vendee, then with such mortgagee or vendee.

With whom settlement to be made.

If, at the time of settlement, a mahál or any share thereof, be in the possession of a lunatic, minor, or other person incapable of making a contract, the settlement shall be made with his guardian or manager on his behalf.

Settlement of mahál in possession of lunatic or minor.

44. When several persons hold a mahál, the Settlement Officer shall have power to make a joint settlement with all such persons, or with their representatives elected according to the custom of the mahál.

Power to make joint settlement with several proprietors, or their elected representatives.

45. Whenever the Settlement Officer frames general proposals of assessment in accordance with the rules made under section two hundred and fifty-seven, he shall report them through the Commissioner of the Division to the Board, and after receipt of the orders of the Board thereon, and subject to such orders, he shall ascertain the amount of the assessment proper for each mahál, and declare the same to the person with whom the settlement of such mahál is to be made.

Framing and reporting general proposals of assessment.

Detailed assessment and declaration thereof to persons concerned.

Such declaration shall be made on a date to be notified by proclamation at the tahsil in which such mahál is situate.

46. If the persons with whom the settlement is to be made agree to the assessment so proposed, they and those (if any) whom they represent in interest shall become liable from the date of such agreement, or from such subsequent date as the Board directs, to pay such assessment,

Effect of agreement to assessment proposed.

and in maháls in which the land, or part of the land, is held in severalty, the Settlement Officer shall distribute such assessment on the lands so held.

Distribution of assessment.

47. In any mahál where, by the established custom, the land or the amount of revenue payable by each sharer is subject to periodical re-distribution or re-adjustment, the Settlement Officer may, on application of the co-sharers, enforce such re-distribution or re-adjustment according to the established custom of the mahál.

Enforcement of custom as to re-distribution of land and adjustment of revenue of shares.

48. If the person to be settled with refuse to accept the assessment offered by the Settlement Officer, or fail to accept such assessment within thirty days from the date of the declaration by the Settlement Officer under section forty-five, the Settlement Officer shall report the case through the Commissioner of the Division to the Board, and the Board may direct that the person so refusing or failing be excluded from the settlement for such term not exceeding fifteen years from the date of such direction, as the Board shall fix. And the Settlement Officer or the Collector of the District may, with the previous sanction of the Board, either farm the mahál or hold it under direct management during such term or any part thereof.

Exclusion of person declining, or failing to accept, settlement.

In such case, the person so excluded shall be entitled (subject to the orders of the Board) to an allowance out of the profits of the mahál of not less than five or more than fifteen per cent. on the proposed assessment.

Allowance to person excluded.

49. If, in a pattidári or imperfect pattidári mahál, some of the co-sharers refuse or fail within thirty days from the date of the declaration by the Settlement Officer under section forty-five to accept the proposed assessment, the shares of the persons so refusing or failing shall be dealt with under the provisions of section forty-eight, and they shall receive an allowance as laid down in that section in proportion to their respective shares in the mahál :

Procedure in case of some of several proprietors refusing assessment.

Provided that the farm of such shares shall be offered in the first instance to those proprietors who have accepted the proposed terms.

50. Any proprietor excluded from settlement under section forty-eight or forty-nine shall be entitled to hold his sir-land as an exproprietary tenant, and the rent to be paid by him for such land during such exclusion shall be fixed by the Settlement Officer accordingly.

Adjustment of rent of the sir-lands of proprietors of estate farmed under section 48 or 49.

Amount of allowance assigned under section 48 or 49 to excluded proprietor and of difference between rent fixed under section 50 and rent payable by him if he were a tenant-at-will.

51. The aggregate amount of any allowance assigned under section forty-eight or section forty-nine to any proprietor excluded from settlement and of the difference between the rent fixed under section fifty and the rent which he would be liable to pay if he were a tenant-at-will, shall not be less than five or more than fifteen per cent. on the assessment proposed by the Settlement Officer.

52. On the expiration of the term fixed under section forty-eight, the settlement shall be offered by the Collector of the District to the person then entitled to be settled with in respect of such mahál or portion, at such assessment for the remainder of the term of settlement of the district as the Board may direct.

And if such person refuse to accept the offer, the Collector of the District shall report such refusal through the Commissioner of the Division to the Board, and such person may be excluded from settlement for such period not exceeding the term of the settlement of the district as the Board may direct, and shall then receive the allowance to which he would be entitled if sections forty-eight and forty-nine applied to his case. And the rent to be paid by him as an exproprietary tenant for his sir-land shall be fixed by the Collector of the District or Assistant Collector in accordance with the North-Western Provinces Rent Act, 1873.

Procedure on refusal.

53. Whenever several persons possess separate heritable and transferable proprietary interests in any mahál, such interests being of different kinds, the Settlement Officer may, under the rules for the time being in force, determine

Power to direct which of several parties having separate and different interests shall be admitted to settlement;

(a) which of such persons shall be admitted to engage for the payment of the revenue, due provision being made for securing the rights of the others, and

(b) the manner and proportion in which the nett profits of the mahál shall be allotted to the several persons possessing separate interests as aforesaid for the term of the settlement.

54. If in any mahál coming under the provisions of section fifty-three, the separate properties bear to each other the relation of superior and inferior, and the settlement be made with the party possessing the superior right, the Settlement Officer may make, on behalf of the superior proprietor, a sub-settlement with the inferior proprietor, by which such inferior shall be bound to pay to the superior an amount equal to the Government demand in respect of the mahál, together with the share of the profits thereof allotted to the superior proprietor under section fifty-three :

Power to make sub-settlement with inferior proprietor in behalf of superior proprietor of mahál coming under section 53.

Provided that, if the inferior proprietor refuse to agree to the terms of such sub-settlement, the mahál shall be made over to the superior proprietor for the term of settlement.

Exclusion of inferior proprietor from sub-settlement in case of refusal of terms.

And in such case the inferior proprietor shall hold as an exproprietary tenant the land (if any) cultivated by him at the date of such refusal, and the superior proprietor shall pay him such annual allowance as, when

Allowance.



added to the difference between the rent fixed for such land and the rent which the inferior proprietor would be liable to pay therefor if he were a tenant-at-will, shall not be less than five or more than fifteen per cent. of the profits allotted to him under section fifty-three.

55. If the settlement of a mahál be made with the inferior proprietor, the amount to be paid by him shall be fixed by the Settlement Officer at such a sum as may be equal to the Government demand in respect of such mahál, together with the share of the profits allowed to the superior proprietor under section fifty-three; and in this case the share of the superior proprietor shall be realized as revenue, and paid to him from the Government Treasury.

56. If in any mahál there exist persons possessing proprietary rights therein which are not of such a nature as to entitle their possessors to settlement, the Settlement Officer may make such arrangements as shall secure such persons in possession of their existing rights, or of an equivalent thereto.

This may be done

(a) by the formation of a sub-settlement on behalf of the proprietors with such persons for any lands actually in their possession, or,

(b) in maháls held as joint undivided property and where the said rights are rights to receive from the tenants any money-payment or portion of the agricultural produce, by assigning, in lieu thereof, the proprietary right in a certain portion of the mahál, the profits of which are equivalent in the opinion of the Settlement Officer to the said payment or portion, or

(c) in such other way as shall maintain the persons referred to in the first clause of this section in the enjoyment of, or of an equivalent to, their existing rights.

57. When the waste-land belonging to, and included at the previous settlement within the boundaries of, any mahál assessed to the payment of revenue is so extensive as, in the opinion of the Settlement Officer, confirmed by the Board, to exceed the requirements of the owner of such mahál with reference to pastoral or agricultural purposes, such officer may make a separate settlement of the waste-land which he considers to be so in excess, and shall offer such waste-land to the owner of the mahál to which it belongs, at such assessment and for such term, not exceeding the period of settlement of the mahál, as the Board may order.

If the owner of the mahál accepts such offer, the Settlement Officer shall make the settlement of such waste-land accordingly, and on the expiration of the term of such settlement, a farther settlement of such waste-land shall be offered, on such terms as the Board directs, to the person entitled to be settled with in respect thereof.

If the owner of such mahál refuses such offer, the Settlement Officer shall mark off the quantity so in excess, and declare it to be a separate mahál and at the disposal of Government: Provided that there shall be allowed to the owner of the mahál to which the waste-land originally belonged such annual sum as the Board may direct, being not less than five and not more than ten per cent. on the nett revenue realized by Government from such waste-land.

58. Waste-land which has neither been judicially declared to be part of any mahál, nor included within the boundaries of any mahál at any previous settlement, shall be marked off by the Settlement Officer,

and he shall record a proceeding declaring such land to be the property of Government, and cause a proclamation to that effect to be stuck up in the District Revenue Court and in the office of the tahsil in which such land is situated, and shall call on all persons having any claims on such land to make the same within three months from the date of the proclamation.

59. Such proclamation shall be held to be an advertisement of the disposal of such land within the meaning of Act No. XXIII of 1868 (to provide for the adjudication of claims to waste-lands), section one, and any person having claims to such land must proceed according to the provisions of that Act.



60. If no claim is made to the proprietary right of such waste-land, or if such waste-land is decided to be the property of Government, but the proprietor of the adjoining mahál proves that he has theretofore enjoyed the use of such land for pastoral or agricultural purposes, the Settlement Officer may assign to such mahál so much of such waste-land as he may consider requisite for such purposes; and he shall mark off the remainder and declare it to be the property of Government.

61. If the claimant obtain a decree under the provisions of the said Act No. XXIII of 1863 for the whole or part of such waste-land, the Settlement Officer may deal with the land to which a title is so established under the provisions of section fifty-seven.

#### RECORD-OF-RIGHTS.

Contents of record.

62. The Settlement Officer shall frame for each mahál a record containing a list of

- (a) all the co-sharers,
- (b) all other persons occupying any portion of the land therein, or who are in possession of any heritable or transferable interest in such land, or receiving rent in respect thereof,
- (c) the nature and extent of the interest held therein by each of such co-sharers and other persons; and
- (d) all persons holding land free of rent, or revenue-free.

63. The record shall also specify the persons (if any) holding land at a rent fixed by grant or by contract, or on condition of service or otherwise, and all other tenants in the mahál, the name and caste of each, the area of their holdings, and all conditions of their tenure.

64. All entries in the record made under sections sixty-two and sixty-three shall be founded on the basis of actual possession, and all disputes regarding such entries, whether taken up by the Settlement Officer of his own motion or upon the complaint of the party concerned, shall be investigated and decided by him on that basis. And all persons not in possession, but claiming the right to be so, shall be referred by him to the proper Court.

Arrangements of co-sharers, to be recorded.

65. The Settlement Officer shall also record the arrangement made by himself or agreed to by the co-sharers,

- (a) for the distribution of the profits derived from sources common to the proprietary body,
- (b) for fixing the share which each co-sharer is to contribute of the Government revenue and of the cesses levied under any law for the time being in force, and of the village expenses,
- (c) as to the manner in which lambardárs or co-sharers are to collect from the cultivators,
- (d) the instalments of rent and the respective dates fixed for their payment, and
- (e) any other matters which he may be directed to record under rules framed under section two hundred and fifty-seven.

66. All cesses which are payable by tenants on account of the occupation of land assessed to revenue and taken into account in such assessment, or which, in the case of land not assessed to revenue, would have been taken into such account had the land been assessed, or in lieu of which proprietary rights have been assigned under section fifty-six, clause (b), shall be consolidated with the rent payable by such tenants.

A list of all other cesses levied in accordance with village custom shall, if generally or specially sanctioned by the Local Government, be recorded by the Settlement Officer, and no cesses not so recorded shall be enforced in any Civil or Revenue Court.

The Local Government may from time to time impose on the collection of any cesses so sanctioned, such conditions as to conservancy, police or other establishments connected with the village, bazar or fair in or on account of which the cesses are levied, as it thinks fit.

67. If it appear to a Settlement Officer that there exist in any mahál under settlement any disputes relative to any of the matters which he is bound to record, under section sixty-five or section sixty-six, he may of his own motion, and without complaint being made, investigate and determine such disputes in accordance with the existing village custom, and frame the record accordingly.

Determination of disputes arising under sections 65 and 66.

68. In framing the list of tenants mentioned in section sixty-three, the Settlement Officer shall state as to each tenant the following particulars :—

(a) Whether, under the provisions contained in the North-Western Provinces Rent Act, he is a tenant holding at fixed rates, or an exproprietary tenant, or an occupancy-tenant, or a tenant without a right of occupancy :

(b) The rent which the landholder and the tenant then admit to be payable by the latter :

(c) If he be a tenant without a right of occupancy, the number of years during which he has held the land then in his possession :

(d) Any other condition of the tenure, whether contained in a written lease or otherwise.

69. Notwithstanding anything contained in section sixty-four, in case of any dispute respecting the class or tenure of any tenant, the Settlement Officer shall decide according to the principles laid down in sections five, six, seven and eight of the North-Western Provinces Rent Act, 1873.

70. In case of any dispute regarding the rent payable by any tenant, the Settlement Officer shall decide according to the principles hereinafter laid down.

Determination of class of tenants.

71. If the proprietor apply to the Settlement Officer to enhance or determine the rent of an exproprietary tenant, the Settlement Officer shall fix the rent of such tenant at a rate which shall be four annas in the rupee below the prevailing rate for land of a similar quality with similar advantages held by tenants-at-will in the same circle or tahsil.

Enhancement and determination of rent of exproprietary tenants.

Determination of rent of occupancy-tenants by Settlement Officer.

72. If a landholder apply to enhance the rent previously paid by any of his occupancy-tenants, or, if an occupancy-tenant apply for an abatement of the rent previously paid by him,

or, if a dispute exists as to the rent to be paid by an occupancy-tenant, the Settlement Officer may fix the rent to be paid by such tenant either by reference to the standard of the rent-rate sanctioned by the Board for purposes of assessment for similar land, with similar advantages, in the circle or tahsil in which the holding of such tenant is situate or by reference to the customary rate of rent paid by tenants of the same class for similar land, with similar advantages, in the same circle or tahsil.

73. In all cases in which rents have heretofore been paid in kind, or on the estimated value of a portion of the crop, or by rates varying with the crop, or partly in one of such ways and partly in another or others of such ways, application to commute such rent to a fixed money rent may be made to the Settlement Officer either by the landholder or by any exproprietary tenant or occupancy-tenant.

Power to commute rent in kind, &c., to fixed money rents.

74. On receipt of such application the Settlement Officer shall deal with the case as if it were an application under section seventy-one or seventy-two, and shall determine the sum to be paid in commutation in accordance with the provisions of those sections.

Procedure on receiving application to commute.

75. Whenever an application for enhancement or abatement or commutation of rent, against or by any number of tenants, is brought before a Settlement Officer, such tenants may be sued or may sue collectively : and it shall be no ground for dismissing or refusing to hear the application, that such tenants are wrongly joined as plaintiffs or defendants, provided all such tenants cultivate in the same mahál :

Joinder of tenants in applications relating to rent.

but no order shall be passed in such case in which enhancement, abatement or commutation of rent is claimed, unless the officer making such order is satisfied that all parties have had an opportunity to appear and make objection to any claims preferred against them.

Provido.

Order in such cases.

76. Every order passed in any such case shall specify the extent to which each of the tenants named in the order shall be affected thereby.

Rent from what date payable.

77. The rent fixed by order of the Settlement Officer shall be payable from the first day of July next following the date of the order of the Settlement Officer, and (subject to the provisions of sections sixteen and seventeen of the North-Western Provinces Rent Act, 1873) shall not be liable to enhancement or abatement for ten years from such first day of July.

Bar to enhancement or abatement.

Powers of Local Government as to commutation-suits.

78. The Local Government may from time to time, by notification in the official Gazette,

- (a) declare the provisions of section seventy-three applicable to any district or portion of a district not under settlement;
- (b) declare what officers are empowered to hear and decide applications under section seventy-three in such district or portion of a district, and lay down rules for their guidance;
- (c) withdraw any notification previously published under this section.

79. And whereas all grants (whether in writing or otherwise) for holding land exempt from the payment of rent which have been made since the first day of December 1790, by any authority other than that of the Governor-General in Council were declared by Bengal Regulation XIX of 1793, section ten, to be null and void, and like provisions have been by divers Regulations at different times applied to the several parts of the territories to which this Act extends; and the said Regulation XIX of 1793 also provided that no length of possession should be considered to give validity to any such grant, either with regard to the property in the soil or the rents of it, it is hereby enacted as follows:—

Resumption of rent-free grants.

Applications by the proprietors to resume such grants or to assess rent on the land shall, when the district in which the land is situate is a district under settlement, be made to the Settlement Officer, who may (subject to this Act and to any rules made hereunder and for the time being in force) make such order thereon as he deems just.

Saving of certain lands held rent-free.

80. Nothing in section seventy-nine applies to either of the following cases,

- (a) where land is, previously to the passing of this Act, held rent-free under a judicial decision,
- (b) where, previously to the passing of this Act, land held rent-free has been purchased for a valuable consideration and its resumption has been barred by Act No. X of 1859, section twenty-eight, or by Act IX of 1871, second schedule, No. 130.

81. Grants of land held under a written instrument (whether executed before or after the passing of this Act) by which the grantor expressly agrees that the grant shall not be resumed, shall be held valid as against him (but not as against his representatives after his death) during the continuance of the settlement of the district in which the land is situate, which was current at the date of the grant.

When rent-free tenure confers proprietary right.

82. Where any land has been for fifty years or upwards, and still is, held rent-free and by at least two successors to the original grantee, such holding shall be deemed to confer on the holder a proprietary right.

Nothing in the Indian Limitation Act, 1871, shall bar the right to make an application under this Act to assess to rent land held rent-free.

Validity of grants which grantor has expressly agreed not to resume.

83. No length of rent-free occupancy of any land, nor any grant of land made by the proprietor, shall release such land from its liability to be charged with the payment of Government revenue.

Saving of liability for Government revenue.

84. In assessing rent under section seventy-nine, the Settlement Officer shall be guided by the provisions of sections seventy-one and seventy-two, so far as they apply.

Sections 71 and 72 to apply.

Form of register of revenue-free tenures.

85. The Settlement Officer shall record all revenue-free tenures in such form of register as the Board from time to time prescribes.

**86.** The Settlement Officer shall enquire into the case of all lands released, conditionally or for a term, from the payment of revenue, and shall assess such lands if it appear to him that the conditions have been transgressed, or the term has expired.

**87.** Any person claiming land free of revenue not recorded as revenue-free, shall be bound to prove his title to hold such land free of revenue.

**88.** If he prove his title to the satisfaction of the Settlement Officer, the case shall be reported to the Local Government whose orders thereon shall be final.

**89.** If the title be not so proved, the Settlement Officer shall proceed to assess the land, and to make the settlement of it with the person in actual possession as proprietor.

**90.** The Board shall from time to time prescribe the form in which the record to be made under the provisions of this chapter shall be drawn up, and the manner in which it shall be attested.

**91.** All entries in the record so made and attested shall be presumed to be true until the contrary is proved.

**92.** No settlement shall be considered final until it has been confirmed by the Local Government.

The Local Government shall at some time before confirming the settlement fix the period for which the settlement is to be made.

Such period shall be fixed with reference to the agricultural year.

The assessment may be revised, if the Local Government so directs, at any time before it is confirmed, and in such case the revised assessment shall be proposed to the proprietors, and the provisions of sections forty-three to ninety-one (both inclusive) shall apply.

**93.** At any time during the currency of a settlement, the Local Government may invest any officer with all or any of the powers of an Officer in charge of a Settlement under this Act within such limits, and with such restrictions, and for such period, as it thinks fit ;

but not so as to enable him to enhance the total amount of revenue payable on account of any mahal except in respect of land added thereto or becoming liable to payment of revenue since the confirmation of the settlement.

No officer so invested shall alter the classification of tenants made under this Act except on the application of a party concerned.

## CHAPTER IV.

### REGISTRATION AND MAINTENANCE OF RECORDS.

**94.** The Collector of the District shall keep and maintain the record-of-rights ;

and he shall from time to time cause to be registered all changes that may take place, and anything that may affect any of the rights or interests recorded ;

and shall correct any errors which the parties interested admit to have been made in the record.

**95.** The Board shall order such registers to be kept up as may be necessary for the purposes of the last preceding section ; and no such changes shall be recorded without the order of the Collector of the District or Assistant Collector.

**96.** The Local Government may prescribe proper fees for mutations in the registers : Provided that no fee for a single mutation shall exceed one hundred rupees.

Such fees shall be levied from the person in whose favor the mutation is made and shall be expended in such manner as the Local Government thinks fit.

97. All persons succeeding to any proprietary right in a mahál, or the profits thereof, whether by inheritance, purchase, gift, or other form of transfer, shall notify the same immediately after it has taken place to the tahsildár of the tahsil in which the mahál is situated, and the tahsildár shall report such notice to the Collector of the District or the Assistant Collector.

98. The Collector of the District or Assistant Collector, on receiving such report, shall make such enquiry as appears necessary to ascertain the truth of the alleged succession to, or transfer of, the property, and if the succession or transfer appears to have taken place, he shall record the same in the register:

Provided that no such entry shall be held to affect the rights of any other person who may claim and establish in any Civil or Revenue Court any interest in the land to which the entry has reference.

Saving of rights of other persons interested.

Notification in case of minority or other disqualification.

99. If the person so succeeding is a minor or otherwise disqualified, the guardian or other person who has charge of his property shall make the notification required by section ninety-seven.

100. Any person neglecting to make the notification required by sections ninety-seven and ninety-nine within three months from the date of the transfer having taken place shall be liable, at the discretion of the Collector of the District or Assistant Collector, to a fine not exceeding five times the amount of the fee which would otherwise have been payable under section ninety-six.

Fine for neglect to notify.

Power to put one party in possession in certain cases of dispute.

101. If in the course of inquiry made under section ninety-eight a dispute regarding the possession of the property arises, and the Collector of the District or Assistant Collector is unable to satisfy himself as to which party is in possession, he shall ascertain by summary enquiry who is the person best entitled to the property, and shall put such person in possession, and make the necessary entry in the record accordingly, subject to any order that may be subsequently passed by the Civil Court.

Registry of transfers of non-proprietary interests in land.

and all disputed

Enquiry in disputed cases.

102. The transfers of all interests in land, other than those referred to in section ninety-seven, shall be recorded by the Kánungo and patwári in such manner as the Board from time to time directs;

and all disputed cases shall be reported to the Collector of the District or Assistant Collector, who shall make such enquiry as may be necessary to ascertain the truth, and cause the record to be amended accordingly.

103. The Collector of the District or Assistant Collector shall enquire annually into the cases of all land released conditionally or for a term from the payment of revenue.

Annual enquiry as to revenue-free grants.

If the condition be broken, he shall report the case through the Commissioner of the Division to the Board for orders, and if the term has expired, or (where the grant is for the life of the grantee) if the grantee has died, he shall assess the land and report his proceedings through the Commissioner of the Division to the Board for sanction.

104. All land added by alluvion to a mahál is liable to assessment. Such land may be assessed and settled under rules to be framed under section two hundred and fifty-seven.

Assessment of land added by alluvion.

Collector and Assistant Collector to have powers of Officer in charge of Settlement.

105. For the purposes of sections one hundred and three and one hundred and four, the Collector of the District and Assistant Collector shall each have the powers of an Officer in charge of a Settlement.

106. All records

Inspection of records.

kept under this Act shall be open to public inspection at such hours and on such conditions as to fees or otherwise as the Local Government may from time to time prescribe.

#### PARTITION AND UNION OF MAHALS:

Partitions.

Perfect partition.

107. Partition is either perfect or imperfect. 'Perfect partition' means the division of a mahál into two or more mahals.

**Imperfect partition** means the division of any property into two or more properties, jointly responsible for the revenue assessed on the whole.

**108.** Any recorded co-sharer in a mahál, and any person in whose favor a decree has been passed by any Civil Court, awarding to him the proprietary right in a portion of a mahál, whether such portion consists of a fractional share in the whole or a part of the mahál, or of specific lands, is entitled to claim perfect partition of his share.

Any two or more recorded co-sharers may claim that their shares be divided from the other shares by a perfect partition, and be held by them as a single mahál.

**109.** Applications for perfect partition are to be made in writing to the Collector of the District or the Assistant Collector in charge of the sub-division of the district in which the mahál is situated;

and shall be accompanied by a certified copy of the record, showing the share held by the applicant in the mahál.

Provided that, if the mahál be situated in two or more districts, the application may be made in any one of those districts, and the partition shall be made by such one of the Collectors of those districts as the Board may direct.

**110.** If the mahál is situated in two or more sub-divisions of a district, the partition shall be made by such one of the Assistant Collectors respectively in charge of such sub-divisions as the Collector of the District may direct.

**111.** The Collector of the District or Assistant Collector, on receiving an application for partition shall, if the application be in order and not open to objection on the face of it, publish a notification of the same at his office, and at some conspicuous place on the mahál to which the application relates,

and shall serve a notice on all such of the recorded co-sharers in the mahál as have not joined in the application, requiring any co-sharer in possession who may object to the partition to appear before him to state his objection, either in person or by a duly authorized agent, on a day to be specified in the notice, not being less than thirty or more than sixty days from the date on which such notice was issued.

Where, from any cause, notice cannot be personally served on any co-sharer, the notification shall be deemed sufficient notice under this section.

**112.** If, on or before the day specified, any objection is made to the partition by any co-sharer in possession, and the Collector of the District or Assistant Collector, on a consideration of such objection, is of opinion that there is any good and sufficient reason why the partition should be absolutely disallowed, he may refuse the application, recording the grounds of his refusal.

**113.** If the objection raises any question of title, or of proprietary right, which has not been already determined by a Court of competent jurisdiction, the Collector of the District or Assistant Collector may either decline to grant the application until the question in dispute has been determined by a competent Court, or he may proceed to inquire into the merits of the objection.

In the latter case the Collector of the District or Assistant Collector, after making the necessary inquiry and taking such evidence as may be adduced, shall record a proceeding declaring the nature and extent of the interests of the party or parties applying for the partition, and any other party or parties who may be affected thereby.

The procedure to be observed by the Collector of the District or Assistant Collector in trying such cases shall be that laid down in the Code of Civil Procedure for the trial of original suits, and he may with the consent of the parties refer any question arising in such case to arbitration, and the provisions of chapter VI (relative to arbitrators) of the same Code shall apply to such references.



114. All orders and decisions passed by the Collector of the District or Assistant Collector under the last preceding section, for declaring the rights of parties, shall be held to be decisions of a Court of Civil Jurisdiction of first instance, and shall be open to appeal to the District or High Court, under the rules applicable to regular appeals to those Courts.

Collector's decision equivalent to decision of Civil Court.

Appeal thereupon.

Upon such appeal being made, the District or High Court, as the case may be, may issue a precept to the Collector of the District or Assistant Collector, desiring him to stay the partition pending the decision of the appellate Court may stay partition.

115. From every decision passed under section one hundred and fourteen by a District Court, a special appeal shall lie to the High Court, under the rules for the time being in force relating to special appeals to that Court.

Special appeal to High Court.

116. When it has been decided to make a partition under this chapter, the Collector of the District or Assistant Collector may give the parties the option of making the partition themselves, or of appointing arbitrators for the purpose; or he shall make the partition himself or cause it to be made by any Assistant Collector subordinate to him.

Option to parties to make partition themselves or to appoint arbitrators.

If arbitrators are appointed, the provisions of sections two hundred and twenty to two hundred and thirty-one, both inclusive, shall apply.

117. In making partitions, the Collector of the District or Assistant Collector, and any person appointed by him, shall have the same powers to enter on the land under partition, for marking out the boundaries, surveying the mahál, and other purposes, as have been conferred on Settlement Officers under chapter III.

Power to enter on land for purposes of partition.

118. Where there are no lands held in common, the lands held in severalty by the applicant for partition shall be declared a separate mahál, and shall be separately assessed to the Government revenue.

Partition of lands held only in severalty.

119. Where some of the lands are held in common, the Collector of the District or Assistant Collector shall allot to the applicant for partition his share of such lands in accordance with village-custom, if any such exist.

Partition of lands some of which are held in common.

If no such custom exist, the Collector of the District or Assistant Collector shall make such division as may secure to the applicant his fair portion of the common lands.

120. The portion of the common lands falling by such partition to the share of the applicant shall be added to the land held by him in severalty, and the maháls thus formed shall be assessed and declared separate maháls.

Formation of separate maháls from shares allotted in partition.

121. In making partitions under sections one hundred and eighteen, one hundred and nineteen, and one hundred and twenty, the Collector or Assistant Collector shall give effect to any transfer of lands held in severalty, forming part of the mahál, agreed to by the parties, and made previous to the declaration of the partition.

Transfers to be effectuated in making partition.

122. Where all the lands are held in common, the Collector of the District or Assistant Collector shall make such a partition as may secure to the applicant his fair share of the mahál.

Partition where all lands held in common.

123. In all cases each mahál shall be made as compact as possible: Provided that, except with the sanction of the Board, no partition be disallowed solely on the ground of incompactness.

Maháls to be compact; partition not to be disallowed for incompactness.

124. If in making the partition it be necessary to include in the mahál assigned to one sharer, the land occupied by a dwelling-house or other building in the possession of another co-sharer, such other co-sharer shall be allowed to retain it, with any buildings thereon, on condition of his paying a reasonable ground-rent for it to the sharer into whose portion it may fall.

Rule when dwelling-house of one sharer is included in mahál assigned to another.

The limits of such land, and the rent to be paid for it, shall be fixed by the Collector of the District or Assistant Collector.

**125.** No sir-land belonging to any co-sharer shall be included in the mahál assigned on partition to another co-sharer, unless with the consent of the co-sharer who cultivates it, or unless the partition cannot otherwise be conveniently carried out.

Rule as to sir-land of one sharer being included in mahál assigned to another.

If such land be so included, and after partition such co-sharer continue to cultivate it, he shall be an occupancy-tenant of such land, and his rent shall be fixed by order of the Collector of the District or of the Assistant Collector.

Rule as to tanks, wells, water-courses and embankments.

**126.** Tanks, wells, water-courses and embankments shall be considered as attached to the land for the benefit of which they were originally made.

Where, from the extent, situation, or construction of such works, it is found necessary that they should continue the joint property of the proprietors of two or more of the maháls into which the mahál may be divided, the Collector of the District or Assistant Collector shall determine the extent to which the proprietors of each mahál may make use of the said works, and the proportion of the charges for repairs of such works to be borne by such proprietors respectively, and the manner in which the profits, if any, derived from such works, shall be divided.

Rule as to places of worship and burial-grounds.

**127.** Places of worship and burial-grounds, held in common previous to the partition of a mahál, shall continue to be so held, unless the parties otherwise agree among themselves.

In such cases they shall state in writing the agreement into which they have entered, and such writing shall be filed with the record.

Determination of revenue payable by each division of a mahál.

**128.** The amount of revenue to be paid by each portion of the divided mahál shall be determined by the Collector of the District or Assistant Collector; provided that the aggregate revenue of the new maháls shall not exceed the revenue assessed on the mahál immediately before partition,

Liability of proprietors.

and the proprietors of the new maháls shall be held liable for the portions of the revenue severally assessed on their maháls, whether new engagements be taken from them or not.

Power to make rules as to costs.

**129.** The Board shall make rules for determining the costs of partitions under this Act, and the mode in which such costs are to be apportioned:

Cost of survey.

Provided that the cost of surveying a mahál, when such survey is necessary for the purpose of partition, shall be paid rateably by all the co-sharers of the mahál, according to their shares therein.

Case may be struck off for default as to costs.

**130.** If the costs to be paid by the applicant for partition are not paid within a time to be fixed by the Collector of the District or Assistant Collector, the case may be struck off the file.

Power to stay partition.

And if at any stage of the proceedings there appears to be any reason for stopping the partition, the Collector of the District may of his own motion, or on the report of the Assistant Collector making the partition, stay the partition and order the proceedings to be quashed.

Partitions to be made or confirmed by Collector, and notified to parties.

**131.** Every partition shall either be made by the Collector of the District, or, if made by an Assistant Collector, be reported to the Collector of the District for his sanction and confirmation;

and on completion of a partition, the Collector of the District shall publish a notification of the fact at his office and at some conspicuous place on each of the new maháls, or in the village of which they form part;

When to take effect.

and it shall take effect from the first day of July next after the date of such notification.

Appeal to Commissioner from orders of Collector.

**132.** An appeal against the decision of the Collector of the District making or confirming a partition, shall lie to the Commissioner of the Division within one year from the date on which such partition takes effect.

Power to order new allotment of revenue on proof of fraud or error in first distribution.

**133.** Where the public revenue is fraudulently or erroneously distributed at the time of the partition, the Local Government may, within twelve years from the time of discovery of the fraud or error, order a new allotment of the public revenue upon the several maháls into which the mahál has been divided, on an estimate of the assets



of each mahál at the time of the partition, to be made conformably to the best evidence and information procurable respecting the same.

Making of imperfect partitions.

134. Imperfect partition shall be carried out according to the provisions of the preceding sections, so far as they are applicable :

Provided that no application for imperfect partition shall be entertained unless the consent of all the recorded co-sharers in the property of which partition is sought be first obtained.

Civil Courts to be held from entertaining applications for partition.

135. No Civil Court shall entertain any suit or application for perfect or imperfect partition.

136. If two or more revenue-paying maháls have originally formed portion of the same village, the proprietors shall be entitled to have such maháls united and to hold them as a single mahál.

137. Every application for the union of such maháls shall be made in writing to the Collector of the District or Assistant Collector in charge of the sub-division of the district in which the maháls are situate.

138. If the Collector of the District or Assistant Collector, as the case may be, see no objection, he shall comply with the application, and cause the necessary entries to be made in the records of his office, reporting the case to the Commissioner of the Division.

Application of chapter to partition or union of revenue free maháls.

139. The provisions of this chapter, so far as they are applicable, may be applied by the order of the Collector of the District to the partition or union of maháls held free of revenue.

#### MAINTENANCE OF BOUNDARIES.

Power of Collector and subordinates to enter and survey land, mark boundaries, and settle disputes.

140. The Collector of the District, Assistant Collectors and their subordinates, shall have power to enter upon and survey land, and to demarcate the boundaries of maháls, villages or fields.

Obligations of owners as to boundary-marks.

141. All owners of maháls, villages or fields are bound to maintain and keep in repair at their own cost the boundary-marks lawfully erected thereon.

142. Any person convicted before a Collector of the District or Assistant Collector of wilfully erasing, removing or damaging such boundary-marks, may be ordered by the convicting officer to pay such sum, not exceeding fifty rupees, for each mark so erased, removed or damaged, as may be necessary to defray the expense of restoring the boundary-marks so erased, removed or damaged, and of rewarding the informer through whom the conviction was obtained.

143. Whenever the person erasing, removing or damaging any such mark cannot be discovered, or if for any other reason it is found impracticable to recover from him the sum which he has been so ordered to pay, the mark shall be re-erected or repaired at the charge of the owner or owners of such one or more of the conterminous fields or maháls, as to the Collector of the District or Assistant Collector seems fit.

144. The Collector of the District or Assistant Collector may decide, on the basis of possession, all disputes concerning boundaries, and may at any time direct the owners of maháls, villages or fields by written notice served upon them,

(a) to cause proper boundary-marks to be erected on such maháls, villages or fields, (b) to repair the boundary-marks lawfully erected on such maháls, villages or fields.

In default of their compliance with such direction within fifteen days from the date of the service of the notice, the Collector of the District or Assistant Collector shall cause such boundary-marks to be erected or repaired, as the case may be, and shall charge the cost of such erections or repairs to the owners of the conterminous villages, fields or maháls in such proportion as he thinks fit.

Recovery of fees, fines and costs.

145. All fees, fines, costs and other sums ordered to be paid under this chapter shall be recoverable as an arrear of revenue.

CHAPTER V.

COLLECTION OF LAND REVENUE.

146. In the case of every mahál the entire mahál and all the proprietors jointly and severally shall be responsible to Government for the revenue for the time being assessed on the mahál.

147. The Board may, with the previous sanction of the Local Government, from time to time make rules as to the instalments in which, and the persons, places, and times to whom and at which, the revenue payable in respect of any land shall be paid.

Until the issue of such rules, the said revenue shall be paid in the instalments, to the persons, and at the times and places, in which, to whom, and at which it is now paid.

Arrear.

Defaulters.

Interest not chargeable.

148. Any sum not so paid becomes thereupon an arrear of revenue, and the persons responsible for it become defaulters.

No interest shall be demanded on any arrear of land-revenue.

If the settlement has been made with a lambardár on behalf of the proprietary body, both the lambardár and the persons so responsible shall be deemed defaulters.

149. A statement of account certified by the tahsildár shall be conclusive evidence of the existence of the arrear, of its amount, and of the person who is the defaulter.

Process for recovery of arrears.

150. An arrear of revenue may be recovered by the following processes:—

- (a) by serving a writ of demand (*dastak*) on any of the defaulters ;
- (b) by arrest and detention of his person ;
- (c) by distress and sale of his moveable property ;
- (d) by attachment of the share, or pattí, or mahál, in respect of which the arrear is due ;
- (e) by transfer of such share or pattí to a solvent co-sharer in the mahál ;
- (f) by annulment of the settlement of such pattí, or of the whole mahál ;
- (g) by sale of such pattí, or of the whole mahál ;
- (h) by sale of other immoveable property of the defaulter.

When writs may issue.

151. Writs of demand may be issued on or after the day following that on which the arrear accrues.

The Board shall from time to time frame rules for the issue of such writs, and fix the costs recoverable from the defaulter as an arrear of revenue, and direct by what officer such writs shall be issued.

152. At any time after an arrear becomes due, the defaulter may be arrested and detained in custody for fifteen days, unless the arrear, together with the costs of arrest, is sooner paid.

The Board may, from time to time, declare by what officers or class of officers the powers of arrest conferred by this Act may be exercised.

153. The Collector of the District or Assistant Collector may, whether the defaulter has been arrested or not, distrain and sell his moveable property, with the exception of the implements of husbandry and cattle actually employed by him in agriculture, and, in the case of an aítizan, of his tools.

154. When an arrear of land-revenue has become due, the Collector of the District may, in addition to or instead of any of the other processes before specified, cause the share, or pattí, or mahál, in respect of which the arrear is due, to be attached and taken under the management of himself or any agent whom he appoints for that purpose.

155. The Collector of the District, or the agent so appointed, shall be bound by all the engagements which existed between the person or persons who, immediately before the attachment, was or were in possession of the land attached, and the subordinate proprietors or tenants, if any,

and shall be entitled to manage the land attached, and to receive all rents and profits accruing therefrom to the exclusion of such person or persons, until the arrears of land-revenue due therefrom have been satisfied, or until the Collector of the District restores to the management thereof the person or persons whose interest has been attached.

**156.** All surplus profits of the land attached, beyond the cost of such attachment and management, including the payment of the current revenue, shall be applied in defraying the said arrear; and no land shall be attached for the same arrears for a longer term than five years from the first day of July next after the attachment; provided that, if the arrear be sooner liquidated, the land shall be released and the surplus receipts (if any) made over to the proprietor.

**157.** When the arrear is due in respect of a share or pattā of a mahāl, the Collector of the District may, with the previous sanction of the Board, transfer such share or pattā, for a term not exceeding fifteen years from the first day of July next after the date of the sanction, to any or all of the other co-sharers, on condition of their paying such arrear and on such terms as the Board in each case may think fit.

This procedure shall not affect the joint and several liability of the co-sharers of the mahāl in which it is enforced.

**158.** When any arrear of land-revenue is due and the Collector of the District is of opinion that the processes hereinbefore provided are not sufficient for the recovery of such arrear, he may, in addition to or instead of all or any of such processes, report, through the Commissioner of the Division, the matter to the Board, and the Board may thereupon order the existing settlement of the pattā or mahāl, in respect of which the arrear is due, to be annulled.

The provisions of this section shall not be put in force for the recovery of any arrear of land-revenue which may have accrued on land,

(a) while under attachment under section one hundred and fifty-four, or

(b) while under the charge of the Court of Wards.

**159.** When the settlement of any land has been annulled, the Collector of the District may, with the previous sanction of the Board, either manage the land himself or through an agent, or he may let it in farm to any person willing to accept the same, for such term and on such conditions as may be sanctioned by the Board:

Provided that the term for which land may be so held or farmed be not longer than fifteen years from the first day of July next after the date of such annulment.

And no contracts made by the persons who immediately before the annulment of the settlement were in possession of the lands comprised therein, or by the persons through whom they respectively claim, relating to such lands, shall, during such term, be binding on the Collector of the District, or his agent, or lessee.

**160.** When the Collector of the District attaches any land under section one hundred and fifty-four, or when the settlement of any land has been annulled under section one hundred and fifty-eight, he shall make public proclamation thereof on the mahāl.

**161.** No payment made after such proclamation on account of rent, or any other asset of the mahāl, to any person other than the Collector of the District or his agent, or lessee, shall be credited to the person making such payment, or relieve him from liability to payment to the Collector of District, his agent, or lessee.

**162.** No payment made to the defaulter, in anticipation of the usual period for the payment of the rents, shall, without the special sanction of the Collector, be credited to the person making the same in account with the Collector of the District or with the person to whom he gives possession.

**163.** When any land has been farmed for arrears of revenue, any balance of revenue due from the farmer may be recovered from him or his surety as an arrear of revenue under the provisions of this Act.

**164.** Whenever the settlement of a portion of a mahál is annulled under section one hundred and fifty-eight, the joint responsibility of the co-sharers for the revenue of such portion of the mahál subsequently becoming due shall be in abeyance until a new settlement of such portion is made under section one hundred and sixty-five.

**165.** After the expiration of the period for which any land has been farmed, or held pursuant to section one hundred and fifty-nine under direct management for the recovery of an arrear of revenue, the Collector of the District shall offer to the person entitled to be settled with under section forty-three a new settlement, on such conditions as the Board may direct, for the remainder of the term of the settlement of the district; and if he refuse such offer, the Collector of the District may (with the previous sanction of the Board) farm the land to some other person, or hold it under direct management under the provisions of sections forty-eight, forty-nine, fifty, and fifty-one.

**166.** When an arrear of land revenue has become due and the Collector of the District is of opinion that the other processes hereinbefore provided are not sufficient for the recovery of such arrear, he may, in addition to, or instead of, all or any of such other processes, and subject to the provisions hereinafter contained, and with the previous sanction of the Board, sell by auction the pattí or mahál in respect of which such arrear is due.

Bar to sale for certain arrears. **167.** Provided that no land shall be sold—  
(a) for any arrear which may have accrued while it was under the charge of the Court of Wards, or was so circumstanced that the Court of Wards might have exercised jurisdiction over it under the provisions of section one hundred and ninety-four, clauses (a), (b), (c), (d) or (e);

(b) for any arrear which may have accrued while it was under attachment under section one hundred and fifty-four;

(c) for any arrear which may have accrued while it was held under direct management by the Collector of the District, or in farm by any other person, under section forty-eight, forty-nine, one hundred and fifty-nine or one hundred and sixty-five.

Land to be sold free of incumbrances. **167.** Land sold under the last preceding section shall be sold free of all incumbrances,

and all grants and contracts previously made by any person other than the purchaser in respect of such land shall become void as against the purchaser at the auction-sale.

Exceptions.

Nothing in the former part of this section applies—

(a) in districts or portions of districts permanently-settled, to farms granted in good faith at fair rents, and for specified areas, by a former proprietor for terms not exceeding twenty years, under written leases duly registered;

(b) in all districts, to lands held under *boná fide* leases at fair rents, temporary or perpetual, for the erection of dwelling-houses, or manufactories, or for mines, gardens, tanks, canals, places of worship, burying grounds, such lands continuing to be used for the purposes specified in such leases.

**168.** If the arrear cannot be recovered by any of the above processes, and the defaulter owns any other mahál, or any share in any other mahál, or any other immoveable property, the Collector of the District may proceed against such mahál or other immoveable property, as if it were the land on account of which the revenue is due, under the provisions of this Act:

Power to proceed against interest of defaulter in property other than that in respect of which default is made. **168.** Provided that no other interests save those of the defaulter alone shall be so proceeded against, and no incumbrances created or contracts entered into by him in good faith shall be rendered invalid by such proceeding.

**169.** On the receipt of the sanction of the Board to the sale of any land, the Collector of the District shall issue a proclamation, in the vernacular language of the district, of the intended sale specifying the time and place of sale,

and (when the land to be sold is a mahál or part of a mahál paying revenue to Government) the revenue assessed upon it, together with any other particulars he may think necessary.

70 When the land is sold for arrears of revenue due thereon, the proclamation shall declare that the land is to be sold free of any incumbrance except the farms and leases (if any) mentioned in section one hundred and sixty-seven.

Such proclamation shall be made at the head-quarters of the tahsil in which the land is situate, and also in the village of which it is a part.

171. A written notice of the intended sale and of the time and place thereof shall be affixed in the office of the Collector of the District, and, where the Assistant Collector in charge of the sub-division in which the land is situate has a separate office, then also in such office, and a copy of such notice shall be served on the defaulter.

172. The sale shall be made either by the Collector of the District in person or by an Assistant Collector specially appointed by him in this behalf.

No such sale shall take place on a Sunday or other authorized holiday, or until after the expiration of at least thirty days from the date on which the said notice thereof has been affixed in the office of the Collector of the District, and proclamation of the sale has been made in the village in which the land is situate.

The Collector of the District may from time to time postpone the sale, reporting such postponement to the Commissioner of the Division.

173. If the defaulter pay the arrear in respect of which the land is to be sold at any time before the day fixed for the sale, to the person appointed under section one hundred and forty-seven to receive payment of the land revenue assessed on such land, or to the Collector of the District, or the Assistant Collector in charge of the sub-division of the district in which the land is situate, the sale shall be stayed.

174. The person declared to be the purchaser shall be required to deposit immediately twenty-five per cent. on the amount of his bid, and in default of such deposit the land shall forthwith be again put up and sold.

175. The full amount of purchase-money shall be paid by the purchaser before sunset of the fifteenth day from that on which the sale of the land took place, or, if the said fifteenth day be a Sunday or other authorized holiday, then on the first office day after such fifteenth day ;

and in default of payment within such period, the deposit, after defraying thereout the expenses of the sale, shall be forfeited to Government, and the property shall be re-sold, and the defaulting purchaser shall forfeit all claim to the property, or to any part of the sum for which it may be subsequently sold.

176. If the proceeds of the sale which is eventually made be less than the price bid by such defaulting purchaser, the difference shall be leviable from him under the rules contained in the Code of Civil Procedure for enforcing payment of money in satisfaction of a decree of Court.

177. Every re-sale of land in default of payment of the purchase-money shall be made after the issue of a fresh notice in the manner prescribed for original sales.

178. Every sale of land under this Act shall be reported by the Collector of the District to the Commissioner of the Division.

179. At any time within thirty days from the date of the sale, application may be made to the Commissioner of the Division to set aside the sale on the ground of some material irregularity or mistake in publishing or conducting it ;

but no sale shall be set aside on such ground unless the applicant proves to the satisfaction of the Commissioner that he has sustained substantial injury by reason of the irregularity or mistake complained of.

180. On the expiration of thirty days from the date of the sale, if no such application as is mentioned in the last preceding section has been made, or if such application has been made and rejected, the Commissioner of the Division shall make an order confirming the sale ; and if such application be made and allowed, the Commissioner shall make an order setting aside the sale.

Every order made under this section shall be final.

181. If no such application be made within the time allowed by section one hundred and seventy-nine, all claims founded on the irregularity or mistake complained of shall, as against the Government, be barred.

Nothing herein contained shall preclude the institution of a suit in a Civil Court for the purpose of setting aside a sale on the ground of fraud.

182. Whenever the sale of any land is set aside, the purchaser shall be entitled to receive back his purchase-money, with or without interest, in such manner as the Commissioner of the Division thinks fit.

183. After a sale of land on which an arrear of revenue is due has been confirmed in manner aforesaid, the Collector of the District in which the land is situate shall put the person declared to be the purchaser into possession of the land, and shall grant him a certificate to the effect that he has purchased the land to which the certificate refers, and such certificate shall be deemed to be a valid transfer of such land, but need not be stamped or registered as a conveyance.

If the land has been sold on account of an arrear due on it, the certificate shall also state that it has been sold free of all incumbrances other than the farms and leases mentioned in section one hundred and sixty-seven.

184. The certificate shall state the name of the person declared at the time of sale to be the actual purchaser ; and any suit brought, whether in a Civil or Revenue Court, against the certified purchaser on the ground that the purchase was made on behalf of another person not the certified purchaser, though by agreement the name of the certified purchaser was used, shall be dismissed with costs.

185. When a sale of land under this Act has been confirmed, the proceeds of the sale shall be applied in the first place to defraying the expenses of the sale and to the payment of any arrears due in respect of such land at the date of the confirmation of such sale, and recoverable as an arrear of land revenue, and the surplus (if any) shall be paid to the person whose land has been sold ; or, if the land sold were held in shares, then to the co-sharers collectively, or according to the amount of their recorded interests, at the discretion of the Collector of the District.

Such surplus shall not (except under an order of a Civil Court) be payable to any creditor of the person whose land has been sold, nor shall it (except under a like order) be retained in the Government Treasury.

187. The person named in the certificate of title as purchaser of any land shall be liable for all instalments of land revenue becoming due in respect of such land subsequently to the date of the confirmation of the sale.

188. Where any land sold under section one hundred and sixty-six is a part of a mahál, any recorded co-sharer, not being himself in arrear with regard to such land, may, if the lot has been knocked down to a stranger, claim to take the said land at the sum last bid :

Provided that the said demand of pre-emption be made on the day of sale, and before the officer conducting the sale has left the office for the day, and provided that the claimant fulfil all the other conditions of the sale.

189. Whenever proceedings are taken under this chapter against any person for the recovery of any arrear of revenue, he may pay the amount claimed under protest to the officer taking such proceedings, and upon such payment the proceedings shall be stayed,

and (subject to the pecuniary limitations prescribed by law) the person against whom such proceedings were taken may sue the Government for the amount so paid in any Civil Court situate in the district where such proceedings were taken ;



and in such suit, the plaintiff may, notwithstanding section one hundred and forty-six, give evidence of the amount which he alleges to be due from him.

190. Any proprietor of a mahál or portion of a mahál that is attached, transferred, held under direct management, farmed, or sold under the provisions of this Act, who may hold sir-land in such mahál or portion, shall be recorded as an exproprietary tenant of such sir-land; and the rent to be paid by him for such land shall be fixed by the Collector of the District or Assistant Collector accordingly.

191. If the term for which any settlement has been made expires before a new settlement is made, all persons with whom a settlement has been made, who continue after the expiration of such term to occupy the land comprised in the expired settlement, shall, until a new settlement is made, hold the said land upon the conditions of the expired settlement.

Existing record-of-rights. In all cases the existing record-of-rights shall remain in force until a new record-of-rights is made.

192. The provisions of this Act with regard to the recovery of arrears of revenue shall apply to all arrears of land revenue and sums of money recoverable as arrears of land revenue and due when this Act comes into force.

## CHAPTER VI.

### COURT OF WARDS.

193. The Board shall have the powers of a Court of Wards for the superintendence of the persons and property of all proprietors of maháls or parts of maháls who are disqualified for the management of their own lands, or who are put under this charge of the Collector of the District by order of a Civil Court under the provisions of any Act for the time being in force.

Proprietors when disqualified for management of their lands.

194. Proprietors shall be held disqualified to manage their own lands when they are—

- (a) females deemed by the Local Government incompetent to manage their estates;
- (b) minors;
- (c) idiots;
- (d) lunatics;
- (e) persons otherwise rendered incapable by physical defects or infirmities from managing their own estates;
- (f) persons convicted of a non-bailable offence and disqualified, in the opinion of the Local Government, by vice or bad character, from managing their estates;
- (g) persons declared by the Local Government, on their own application, to be disqualified from managing their estates.

195. The Court of Wards may, in its discretion, assume or refrain from assuming the superintendence of the person or property of any disqualified proprietor, and may at any time release any person or property from its superintendence.

Power to Court of Wards to decline superintendence.

Proviso as to person or property placed under superintendence.

Provided that such person or property has not been placed under the Court of Wards by any competent authority, whose order is necessary for his or its release.

196. The Collector of the District shall ascertain and report to the Court of Wards from time to time what proprietors may come within the description of disqualified landholders under section one hundred and ninety-four;

and the Court of Wards shall, on receipt of the report of the Collector, make such order as may seem to it expedient.

Power to enforce provisions of this chapter without report.

197. Nothing in section one hundred and ninety-six shall prevent the Court of Wards or the Local Government from enforcing the provisions of this chapter in force without any report from the Collector.

198. If, in any case not specially provided for by this or any other law in force for the time being, the right of the Court of Wards to assume or retain the superintendence of the person or property of a disqualified proprietor is disputed by such proprietor, or, if he be a minor, by some person on his behalf, the case shall be reported to the Local Government, whose orders thereon shall be final.

199. The Court of Wards may appoint managers of the property of disqualified proprietors; and if such proprietors be minors, idiots or lunatics, the Court of Wards may appoint guardians for the care of their persons, and may remove and control such managers and guardians.

Proprietors may appoint guardians for their heirs, if disqualified, by will executed and attested in manner required by the Indian Succession Act, 1865; but such appointment shall not be valid till confirmed by the Court of Wards.

200. The Court of Wards may direct where all male minors under its jurisdiction shall reside for the purpose of education or otherwise.

201. The manager appointed by the Court of Wards shall have power to collect the rents of the land entrusted to him as well as all other money due to the disqualified proprietor, and to grant receipts therefor;

and he may, subject to the control of the Court, grant or renew such leases and farms, not being for a longer period than five years, as may be necessary for the good management of the property.

202. The manager shall manage the property committed to him diligently and faithfully for the benefit of the proprietor, and shall in every respect act to the best of his judgment for the proprietor's interest as if the property were his own.

203. The Court of Wards shall have power to give such leases or farms of the whole or parts of the property under its charge, and to mortgage or sell any part of such property, and to do all such other acts, as it may judge to be most for the benefit of the property and the advantage of the disqualified proprietors.

204. The Court of Wards may exercise all powers conferred on it by this Act through the Collectors of the Districts in which any part of the property of its Wards may be situated, or through any other person whom it may appoint for such purpose.

205. All disqualified proprietors whose property is in charge of the Court of Wards, and for whom guardians have been appointed, shall sue and be sued by and in the name of their guardians:

Provided that no such suit shall be brought or defended by any such guardian without the sanction of the Court of Wards.

206. Every manager appointed by the Court of Wards shall—

(a) give such security as the Court of Wards thinks fit, duly to account for what he shall receive in respect of the rents and profits of the property for which he is appointed;

(b) pass his accounts at such periods and in such form as the Court of Wards directs;

(c) pay the balance due from him thereon;

(d) apply for the sanction of the Court of Wards to any act which may involve the property in expense not previously sanctioned by such Court;

(e) be entitled to such allowance as the Court of Wards thinks fit for his care and pains in the execution of his duties;

(f) be responsible for any loss occasioned to the property by his wilful default or gross negligence.

## CHAPTER VII.

### PROCEEDINGS OF REVENUE COURTS.

Place for holding Court.

207. A Commissioner of a Division may hold his Court at any place within his division that he thinks fit.



A Collector of a District, an Assistant Collector (whether in charge or not in charge of a sub-division of a district), or an Officer in charge of a Settlement or Assistant Settlement Officer, may hold his Court at any place within the limits of the district to which he is appointed.

A tahsildar may hold his Court at any place within the limits of his tahsil.

Power to summon persons to give evidence and produce documents.

208. Any officer mentioned in section two hundred and seven shall have power to summon any person whose attendance he considers necessary for the purpose of any investigation, suit, or other business before him.

\* All persons so summoned shall be bound to attend, either in person or by an authorized agent, as such officer may direct,

and to state the truth upon any subject respecting which they are examined or make statements,

and to produce such documents and other things as may be required.

209. Every summons shall be in writing in duplicate, and shall be signed and sealed by the officer issuing it, or by such person as he empowers in this behalf,

Summons to be in writing, signed and sealed.

and shall be served by tendering or delivering a copy of it to the person summoned, or, if he cannot be found, by affixing a copy of it to some conspicuous part of his usual residence.

Mode of service.

210. If his usual residence be in another district, the summons may be sent by post to the Collector of that District, who shall serve it in accordance with the preceding section.

Service in district other than that of issuer.

Mode of serving notices.

211. Every notice under this Act may be served, either by tendering or delivering a copy thereof to the person on whom it is to be served ;

or, if such person is a proprietor of land, to his agent ;

or by affixing a copy thereof to some conspicuous place on the land to which such notice refers.

No such notice shall be deemed void on account of any error in the name or designation of any person referred to therein, unless when such error has produced substantial injustice.

Notice not void for error.

212. In any suit instituted before any officer mentioned in section two hundred and seven, if either party desires the attendance of witnesses, he shall follow the procedure prescribed by the Code of Civil Procedure, section one hundred and fifty-one.

Procedure for procuring attendance of witnesses.

Hearing in absence of party neglecting to attend, and order *ex parte* or by default.

213. Whenever any party to the suit or matter under investigation neglects to attend on the day specified in the summons, the suit or matter may be heard and determined in his absence, and an order passed by default, or *ex parte*, as the case may be.

No appeal from order *ex parte* or by default.

214. No appeal shall lie from an order passed *ex parte*, or by default.

But in all such cases, if the party against whom judgment has been given appears either in person or by agent (if a plaintiff within fifteen days from the date of such order, and if a defendant within fifteen days after any process for enforcing the judgment has been executed, or at any earlier period), and shows good cause for his non-appearance, and satisfies the officer making the order that there has been a failure of justice, such officer may, upon such terms as to costs or otherwise as he thinks proper, re-investigate the case and alter or rescind the order according to the justice of the case :

Order not to be altered without summons to adverse party.

Provided that no such order shall be reversed or altered without previously summoning the party in whose favor judgment has been given to appear and be heard in support of it.

215. In all cases coming under sections one hundred and one, one hundred and three, one hundred and twelve, one hundred and thirteen, one hundred and twenty-six, one hundred and forty-two, and one hundred and forty-four, the evidence shall be taken down in full in writing in the language in ordinary use in the district, by or in the presence and hearing and under the personal superintendence and direction of the officer making the investigation, and shall be signed by him.

Mode of taking evidence in certain cases.

In cases in which the evidence is not taken down in full in writing by the officer making the investigation, he shall, as the examination of each witness proceeds, make a memorandum of the substance of what such witness deposes; and such memorandum shall be written and signed by such officer with his own hand, and shall form part of the record.

If such officer is prevented from making a memorandum as above required, he shall record the reason of his inability to do so.

The Local Government may declare what shall, for the purpose of this section, be deemed to be the language in ordinary use in any district.

216. When the evidence is given in English, such officer may take it down in that language with his own hand, and an authenticated translation of the same in the language in ordinary use in the district shall be made and shall form part of the record.

Taking evidence given in English. Translation to be on record.

217. In all cases other than those specified in section two hundred and fifteen, such officer may either cause the evidence to be taken down in full as aforesaid, or may make a memorandum in his mother-tongue of the substance of the evidence of each witness as the examination of such witness proceeds.

Taking evidence in other cases.

Memorandum to be in writing signed.

Such memorandum shall be written and signed by such officer with his own hand, and shall form part of the record.

Writing and explanation of decisions.

218. All decisions under this Act shall be written by the officer passing the same in his own handwriting, and shall be explained by him in open Court to the parties or their agents.

Hearing and decision. Notice to parties.

Every hearing and decision shall be in open Court, and the parties or their authorized agents shall have due notice to attend.

Sections 212—218 to apply to judicial proceedings in Revenue Courts.

219. Sections two hundred and twelve to two hundred and eighteen (both inclusive) shall apply to proceedings of a judicial nature in Revenue Courts.

#### REFERENCE TO ARBITRATION.

220. A Commissioner of a Division, a Collector of a District, an Assistant Collector of the first class, an Officer in charge of a Settlement, or an Assistant Settlement Officer, may, with the consent of the parties, by order, refer any dispute before him to arbitration, and an Officer in charge of a Settlement or an Assistant Settlement Officer may, by order, refer any dispute before him to arbitration without the consent of the parties, and a Tahsildar invested with the powers described in sections one hundred and forty to one hundred and forty-four (both inclusive) may, with the consent of the parties, refer to arbitration any dispute arising before him respecting the matters mentioned in the same sections.

221. In referring any such dispute to arbitration, the officer making the reference shall specify, in the order of reference, the precise matter submitted to the arbitrators, and such period as he may think reasonable for the delivery of the award;

and he may from time to time extend such period.

Appointment of arbitrators.

222. The parties to the case may each nominate either one or two arbitrators, provided that each party shall nominate the same number;

and a third or fifth arbitrator (as the case may be) shall be appointed by the officer making the reference.

And in cases when an Officer in charge of a Settlement or an Assistant Settlement Officer refers a dispute without the consent of the parties, he shall, if they refuse to nominate arbitrators under the first paragraph of this section, nominate three or five arbitrators as he thinks fit.

Power to excuse arbitrator from serving and to call for nomination of substitute.

223. Every officer making a reference under this chapter may, on good cause shown, excuse any person from serving as an arbitrator, and may call on the party who nominated such person to nominate another in the place of the person so excused.

Nomination of new arbitrator in place of one dying or failing to act.

224. If an arbitrator die, desire to be discharged, or refuse or become incapable to act, the party who nominated him shall nominate another person in his place.

Nomination by Collector when parties fail.

225. If in any of the cases provided for by section two hundred and twenty-three or section two hundred and twenty-four, any party fail for a week to nominate in manner aforesaid, the officer making the reference shall appoint some person to act as arbitrator.

Award.

The arbitrators shall determine and award concerning the matters referred to them for arbitration; and the parties disputing, and all persons claiming through them respectively, shall abide by and perform the award of the arbitrators.

Summoning parties to give evidence.

226. If the arbitrators require the presence of the parties, or any other persons whose evidence may be necessary, they shall apply to the officer making the reference, who shall summon such parties or persons; and all such parties or persons shall be bound to attend, either in person or by agent, as the arbitrators may require, and to state the truth and to produce such documents and other things as may be required before the arbitrators.

Obligation of person summoned.

227. The award

Preparation and submission of award.

shall be made in writing under the hands of the arbitrators, and shall be submitted by them to the officer making the reference, who shall cause notice to be served on the parties to attend and hear the award.

In what cases award or subject of arbitration may be remitted to arbitrators.

228. The officer making the reference may remit the award or any of the matters referred to arbitration to the re-consideration of the same arbitrators,

(a) if the award has left undetermined some of the matters referred to arbitration, or if it determine matters not referred to arbitration;

(b) if the award is so indefinite as to be incapable of execution;

(c) if an objection to the legality of the award is apparent upon the face of the award.

Grounds on which award may be set aside.

229. No award shall be liable to be set aside except on the ground of corruption or misconduct of all or any of the arbitrators.

Application to set aside.

Any application to set aside an award shall be made within ten days after the day appointed for hearing the award.

Decision according to award.

230. If the officer making the reference does not see cause to remit the award or any of the matters referred to arbitration for re-consideration in the manner aforesaid,

and if no application has been made to set aside the award,

or if he has refused such application,

he shall decide in accordance with the award of the majority of the arbitrators,

and shall fix the amount to be allowed for the expenses of the arbitration and direct by and to whom, and in what manner, the same shall be paid.

Bar to appeal and suit in Civil Court.

231. Such decision shall not be open to appeal, and shall be at once carried out;

and no Civil Court shall entertain any suit for the purpose of setting it aside or against the arbitrators on account of their award.

#### ENFORCEMENT OF DECISIONS.

232. Any officer mentioned in section two hundred and seven may execute all decisions made by himself or by an Appellate Court on appeals in suits instituted in his Court under the provisions of this Act, in

cases wherein a specific sum of money is adjudged to be due, or any costs or damages are awarded, by levying the same by any process in use for the recovery of an arrear of revenue or rent.

233. In cases wherein possession of immoveable property is adjudged, the officer making the award may deliver over possession in the same manner, and with the same powers in regard to all contempt, resistance, and the like, as may be lawfully exercised by the

Delivery of possession of immoveable property.

Civil Courts in execution of their own decrees.

POWERS OF COLLECTORS.

Powers of Collectors of Districts.

234. Collectors of Districts may, in addition to their own powers, exercise all the powers conferred by this Act on Assistant Collectors.

Powers of Assistant Collectors in charge of Sub-divisions.

235. An Assistant Collector in charge of a Sub-division of a District shall, as such, have the following powers :—

- (1.) To refer cases for enquiry or decision to his subordinates, under section eighteen :
- (2.) To withdraw cases from his subordinates and to deal with them himself, or to refer them for disposal to any other subordinate officer competent to deal with them, under the same section :
- (3.) To appoint patwāris on nomination of proprietors, under section twenty-five; and in case of disagreement, under section twenty-six :
- (4.) To appoint patwāris on failure of proprietors to nominate, under section twenty-seven :
- (5.) To appoint a patwāri, if disqualified person be nominated by the proprietors, under section twenty-eight :
- (6.) To order changes in the proprietary register, under section ninety-four and section ninety-five :
- (7.) To levy fees for mutations, under section ninety-six :
- (8.) To enquire into cases of reported transfers, under section ninety-eight :
- (9.) To levy fines, under section one hundred :
- (10.) To declare the person best entitled to property, and put him in possession, under section one hundred and one :
- (11.) To enquire into cases of disputed transfer of non-proprietary rights, under section one hundred and two :
- (12.) To report on revenue-free holdings, and to assess revenue on resumed grants, under section one hundred and three :
- (13.) To assess alluvial lands, under section one hundred and four :
- (14.) To receive applications for partition, under section one hundred and nine :
- (15.) To issue notification of partition, under section one hundred and eleven :
- (16.) To hear objections to partition and disallow partition, under section one hundred and twelve :
- (17.) To hear objections raising questions of title or proprietary right, and to decide them or refer them to arbitration, under section one hundred and thirteen :
- (18.) To give parties the option of making partition, or of appointing arbitrators, or himself to make partition, under section one hundred and sixteen :
- (19.) To make partitions, under sections one hundred and seven to one hundred and thirty-nine (both inclusive) :
- (20.) To fix the rent of land occupied by a building and the rent to be paid therefor, under section one hundred and twenty-four :
- (21.) To fix the rent of land which a former co-sharer continues, after partition, to cultivate in another mahal, under section one hundred and twenty-five :
- (22.) To adjust the use, charges, and profits of tanks, wells, watercourses, and embankments, under section one hundred and twenty-six :
- (23.) To fix the land revenue on divided portions, under section one hundred and twenty-eight :
- (24.) To recover costs of partition, under section one hundred and twenty-nine :
- (25.) To strike off a partition-case in default of payment of costs, under section one hundred and thirty :
- (26.) To receive applications for, and carry out, the union of estates, under section one hundred and thirty-seven :
- (27.) To fine for injuries to boundary-marks, and in certain cases apportion the charges of repairing boundary-marks, under sections one hundred and forty-two and one hundred and forty-three :
- (28.) To call on owners to erect or repair boundaries, and, in default, to erect and repair and charge the cost to owners, and to decide disputes regarding boundaries, under section one hundred and forty-four :

(29.) To distrain and sell moveable property of defaulters, under section one hundred and fifty-three :

(30.) To fix the rent to be paid for their sir-land by proprietors of maháls which have been attached, transferred, held under direct management, farmed or sold under the provisions of this Act :

(31.) To exercise any other jurisdiction or authority which by this Act is expressly attributed to Assistant Collectors.

236. Assistant Collectors of the first class, not in charge of Sub-divisions of Districts, shall exercise all or any of the powers conferred on Assistant Collectors of the first class in charge of Sub-divisions, in such cases or class of cases as the Collector of the District may from time to time refer to them for disposal.

237. All Assistant Collectors of the second class shall have power to investigate and report on such cases as the Collector of the District or Assistant Collector in charge of a Sub-division of a District may, from time to time, commit to them for investigation and report.

#### POWERS OF SETTLEMENT OFFICERS.

238. Officers in charge of a settlement may exercise all the powers conferred by or under this Act on Settlement Officers, but none but an officer in charge of a settlement or an Assistant Settlement Officer specially empowered by Government shall have power—

- (1.) To frame proposals for assessment, under section forty-five :
- (2.) To distribute the assessment, under section forty-six :
- (3.) To re-distribute land or revenue, under section forty-seven :
- (4.) To exclude proprietors from settlement for refusal to engage, under sections forty-eight and forty-nine :
- (5.) To adjust the rent of excluded proprietors, under section fifty-one :
- (6.) To make a sub-settlement, under section fifty-four, and a settlement, under section fifty-five :
- (7.) To make arrangements for securing the rights of persons with whom the settlement is not made, under section fifty-six :
- (8.) To deal with waste land, under sections fifty-seven to sixty-one (both inclusive) :
- (9.) To resume and assess rent-free tenures, under sections seventy-nine and eighty :
- (10.) To resume and assess revenue-free land, under section eighty-six :
- (11.) To decide claims to hold land revenue-free, under section eighty-eight and eighty-nine.

239. All other powers conferred on Settlement Officers by this Act shall be exercised by Assistant Settlement Officers under such restrictions as the officer in charge of a settlement may from time to time impose.

240. The Local Government may invest any officer in charge of a settlement with all or any of the powers of a Collector of a District under this or any other Act for the time being in force in the North-Western Provinces, and any Assistant Settlement Officer with all or any of the powers conferrible on an Assistant Collector under this or any other Act for the time being in force in the North-Western Provinces, within such limits, and with such restrictions, and for such period, as it thinks fit.

241. No Civil Court shall exercise jurisdiction over any of the following matters :—

(a) Claims by any person to any of the offices mentioned in sections twenty-four and thirty-three, or to any emolument appertaining to such office, or in respect of any injury caused by his exclusion therefrom :

(b) The claim of any person to be settled with, or the validity of any engagement with, Government for the payment of revenue, or

the amount of revenue, cess or rate to be assessed on any mahál, or share of a mahál under this or any other Act for the time being in force :

(c) Any claims connected with or arising out of any process enforced on account of neglect or refusal to accept the assessment or terms of sub-settlement proposed by the Settlement Officer :

(d) The formation of the record-of-rights, the preparation, signing, or attestation of any of the documents contained therein, or the notification of settlement :

(e) The determination of the class of a tenant or the rent payable by him, or the period for which such rent is fixed under this Act :

(f) The distribution of the land or allotment of the revenue of a mahál by partition; or

the determination of the rent to be paid by a co-sharer for land held by him after the partition in the mahál of another co-sharer :

(g) Any matters provided for in sections fifty-three to sixty-one (both inclusive) :

(h) Any matters provided for in sections seventy-nine to eighty-nine (both inclusive) and one hundred and three :

(i) Claims connected with, or arising out of, the collection of revenue (other than claims under section one hundred and eighty-nine), or any process enforced on account of an arrear of revenue,

or on account of any sum which is by this or any other Act realizable as revenue :

(j) Claims to set aside a sale for arrear of revenue other than claims under section one hundred and eighty-one :

(k) Any matter falling within the jurisdiction of the Court of Wards, or on which the jurisdiction of that Court is actively exercised, except for the purpose of recovering property committed by that Court to the charge of the Collector of the District.

In all the above cases, jurisdiction shall rest with the revenue authorities only.

## CHAPTER VIII.

### APPEALS.

242. An appeal shall lie from any order passed by any Assistant Collector of the first or second class, whether in charge of a Sub-division or not, to the Collector of the District.

Appeal to Collector of District. An appeal shall lie from any order passed by an Assistant Settlement Officer to the officer in charge of the settlement.

243. An appeal shall lie to the Commissioner of the Division from any order passed by the Collector of a District or an officer in charge of a settlement, or from any declaration or distribution of assessment under sections forty-five, forty-six or forty-seven.

244. Subject to the provisions of section two hundred and forty-nine, an appeal shall lie to the Board from any order passed under this Act by the Commissioner of a Division.

245. No appeal under section two hundred and forty-two shall be brought after the expiration of thirty days from the date of the order complained of.

No appeal under section two hundred and forty-three shall be brought after the expiration of sixty days from the date of the order complained of.

No appeal under section two hundred and forty-four shall be brought after the expiration of ninety days from the date of the order complained of.

246. In computing the period prescribed for an appeal under this chapter, the day on which the order complained of was pronounced, and the time requisite for obtaining a copy of such order, shall be excluded.

247. Any appeal under this chapter may be admitted after the period of limitation prescribed therefor, when the appellant satisfies the officer or Board to whom or to which he appeals, that he had sufficient cause for not presenting the appeal within such period.

No appeal shall lie against an order under this section admitting an appeal.

248. Nothing in this chapter applies to orders expressly made final by this Act or to appeals under section one hundred and thirty-two.

249. In any appeal to the Commissioner of a Division from an order passed by the Collector of the District or officer in charge of a settlement, on an appeal from an order of an Assistant Collector of the first or second class, or of an Assistant Settlement Officer, the Commissioner's order when not appealable, but subject to revision.

missioner's order shall not be appealable, but shall be subject to revision by the Board under sections two hundred and fifty-three and two hundred and fifty-five.

**250.** The Appellate Court may either admit or summarily reject the appeal:

If it admit the appeal, it may reverse, modify or confirm the order of the Lower Court,

or it may direct the Court to make such further investigation or to take such additional evidence as it may think necessary,

or it may itself take such additional evidence.

Power to suspend execution of order of Lower Court.

**251.** In any case in which an appeal is allowed, the Appellate Court may, pending the order on appeal, direct the execution of the order of the Lower Court to be suspended.

## CHAPTER IX.

### MISCELLANEOUS.

**252.** Whenever a Court is closed on the last day of any period provided in this Act for the presentation of any memorandum of appeal, or for the deposit or payment of any money in or into Court, the day on which the Court re-opens shall be deemed to be such last day.

Power of Board to call for and examine record of case or proceedings of subordinate Revenue Court

**253.** The Board may call for and examine the record of any case, or the proceedings of any Revenue Court subordinate to it, for the purpose of satisfying itself as to the legality or propriety of any order passed, and as to the regularity of the proceedings of such Court.

Power of Commissioner, Collector, and officer in charge of settlement to call for records and proceedings.

**254.** The Commissioner of a Division, or the Collector of a District, or the officer in charge of a settlement, may call for and examine the record or proceedings of any Revenue Court subordinate to him respectively, for the purposes mentioned in section two hundred and fifty-three;

and if he is of opinion that the proceedings taken or order passed by such subordinate officer should be modified, cancelled, or reversed, he shall report the case with his opinion thereon for the orders of the Board.

**255.** If in any case, whether called for by the Board or reported for orders, it appears to the Board that any order or proceedings should be modified, cancelled, or reversed, it may pass such order thereon as it thinks fit.

Power of Board in cases called for or reported.

**256.** The Board may, with the previous sanction of the Local Government, make and issue general rules for regulating the practice and procedure of their own Court, or of any Revenue Court subordinate to them, not otherwise provided for by law.

Power to Board to make rules.

Power of Local Government to invest tahsildars with certain powers. To make rules.

**257.** The Local Government may invest any tahsildar with the powers described in sections one hundred and forty to one hundred and forty-four (both inclusive), and may from time to time make rules consistent with this Act,

(a) for regulating the assessment of land gained by alluvion, or the decrease of the assessment of a mahal in consequence of diluvion;

(b) for the guidance of Settlement Officers in fixing rent under section seventy-one or section seventy-two and section seventy-four:

All such rules shall be published in the *North-Western Provinces Gazette*, and shall thereupon have the force of law.

Power of Board to make rules.

The Board, subject to the sanction of the Local Government, may from time to time make rules consistent with this Act, for

(c) prescribing the duties to be performed respectively by tahsildars, kánungos, and patwáris;

(d) regulating the appointment of tahsildars and officers inferior to them in rank, their duties, punishment, suspension, and dismissal;

(e) prescribing the manner in which Settlement Officers shall report for sanction the rates and method of assessment and the amounts they propose to assess;



(f) generally for the guidance of all persons in matters connected with the enforcement of this Act.

258. In Act No. XL of 1858 (*for making better provision for the care of the persons and property of minors in the Presidency of Fort William in Bengal*), section two shall be read as if, for the words "estates paying revenue to Government," the words "maháls assessed to revenue or held revenue-free," were substituted.

259. If, while any suit or application under this Act is pending before a Settlement Officer, the settlement of the district in which the subject-matter of the suit or application is situate is closed by the issue of a notification under section thirty-seven, such suit or application shall be made over to the Court of the Collector of the District, and may be by him transferred or otherwise dealt with as if it had been originally instituted in or made to his Court.

Disposal of suits and applications pending before Settlement Officer when settlement is closed.

### THE FIRST SCHEDULE.

- I. The province of Kumáon and Garhwál.
- II. The Tarai Parganas, comprising—Bázipúr, Káshipúr, Jaspúr, Rudarpúr, Gadar-pur, Kilpurí, Nanak-Mattha, and Bálheri.
- III. In the Mirzapúr District:—
  - (1) The tappás of Agori Khás and South Kon in the Pargana of Agori
  - (2) The tappá of British Singrauli in the Pargana of Singrauli.
  - (3) The tappás of Phulwa Dudhi and Barhá in the Pargana of Bichipár.
  - (4) The portion lying to the South of the Kaimor Range.
- IV The Family Domains of the Mahárája of Benares, comprising the following parganas:—
 

Bhadohi and Kheyra Mángror in the Mirzapúr District.

Kaswá Rajá in the Benares District.
- V The tract of country known as Jaunsár Báwar in the Dehra Dún District.

### THE SECOND SCHEDULE.

#### ENACTMENTS REPEALED.

#### Part I.—Regulations

Number and Year.	Title or abbreviated Title.	Extent of Repeal.
II of 1795 ...	A Regulation for re-enacting, with Modifications and Amendments, the Rules regarding the temporary and permanent Settlements of the Revenue in the Province of Benares.	So much as has not been repealed
V of 1795 .	A Regulation prescribing Rules for the conduct of the Collector of the Public Revenue in the Province of Benares.	So much as has not been repealed.
VI of 1795 ...	A Regulation prescribing the Process by which the Collector and the Tehseeldars are to realize the Public Revenue payable from the Lands in the Province of Benares.	So much as has not been repealed.
XIX of 1796	A Regulation for forming a quinquennial Register of the Landed Estates in Benares, subject to the Payment of Revenue to Government, and of the Amount of the fixed annual Revenue payable to Government from each Estate.	So much as has not been repealed.



## SECOND SCHEDULE.— (Continued )

Number and Year	Title or abbreviated Title.	Extent of Repeal
XLI of 1795 . .	A Regulation prescribing Rules for trying the Validity of the Titles of Persons holding, or claiming a Right to hold, Lands, exempted from the Payment of Revenue to Government in the Province of Benares, &c	The whole.
XLII of 1795 ...	A Regulation for enacting, with Modifications, the Rules for trying the Validity of the Titles of Persons holding, or claiming a Right to hold, Altunghah, Jaghire, and other Lands in the Province of Benares, exempt from the payment of Public Revenue, &c.	So much as has not been repealed.
LI of 1795 ...	A Regulation respecting ryotty Pottahs in the Province of Benares.	So much as has not been repealed.
LVIII of 1795 ...	A Regulation for granting to the Collectors a Commission on the Jumma of Lands, &c.	So much as has not been repealed
XV of 1797 . .	A Regulation for levying certain Fees to defray the Expense of the Offices for keeping the Records in the Native Languages which relate to the Public Revenue established under Regulations XXI, 1793, and XXX, 1795	The whole, so far as it relates to the North-Western Provinces
V of 1800 ...	A Regulation for extending to the Province of Benares the Rules contained in Regulation VII, 1799, for enabling Proprietors and Farmers of Land to realize their Rents with greater Punctuality: as well as such other Parts of the above Regulation as are applicable to the Province of Benares.	The whole
VIII of 1800 ...	A Regulation for preparing a general Pergunnah Register of Lands; and for certain Alterations in the prescribed Registers of Estates paying Revenue, and Lands held exempt from the Payment of Revenue.	The whole, so far as it relates to the North-Western Provinces
I of 1801 .	A Regulation to explain and amend Part of the Rules for collecting the public Revenue contained in Regulations VII, 1799, and V, 1800, &c.	The whole, so far as it relates to the North-Western Provinces
III of 1803 .	A Regulation for receiving, trying, and deciding suits or complaints, declared cognizable in the Courts of Adawlut, &c.	So much as has not been repealed
V of 1803 ..	A Regulation for empowering the Sudder Dewauny Adawlut to try appeals, &c.	Section twenty-six
XXIII of 1803 .	A Regulation for establishing in each Zillah, in the Provinces ceded by the Nawaub Vizier to the Honorable the English East India Company, an Office for keeping the Records in the Native Languages which relate to the Public Revenue, and prescribing Rules for the Conduct of the keepers of the Records.	The whole

SECOND SCHEDULE.—(Continued.)

Number and Year.	Title or abbreviated Title.	Extent of Repeal.
XXV of 1803 ...	A Regulation prescribing Rules for the Conduct of the Board of Revenue and the Collectors, &c.	The whole.
XXVII of 1803 ...	A Regulation prescribing the process by which the Collector and the Tehseeldars are to realize the Public Revenue payable from the Lands, in the Provinces ceded by the Nawaub Vizier to the Honorable the English East India Company.	So much as has not been repealed.
XXX of 1803 ...	A Regulation prescribing Rules for the Grant of Pottahs by the Landholders, in the Provinces ceded by the Nawaub Vizier to the Honorable the English East India Company, to their Under-farmers, Tenants, and Ryots.	So much as has not been repealed.
XXXI of 1803 ...	A Regulation for trying the Validity of the Titles of Persons holding, or claiming a Right to hold, Lands exempted from the Payment of Public Revenue, under Grants not being Badshahee or Royal Grants, in the Provinces ceded by the Nawaub Vizier to the Honorable the English East India Company, &c.	So much as has not been repealed.
XXXVI of 1803...	A Regulation for trying the Validity of the Titles of Persons holding, or claiming a Right to hold, Lands exempted from the Payment of Public Revenue, under Badshahee or Royal Grants, in the Provinces ceded by the Nawaub Vizier to the Honorable the English East India Company, &c.	So much as has not been repealed.
XLII of 1803 ...	A Regulation for forming a periodical Register of the Zemindaries and other landed Estates, paying revenue to Government, in the Provinces ceded by the Nawaub Vizier to the Honorable the English East India Company.	So much as has not been repealed.
LII of 1803 ...	A Regulation for establishing a Court of Wards in the Provinces ceded by the Nawaub Vizier to the Honorable the English East India Company.	So much as has not been repealed.
V of 1804 ...	A Regulation to provide for the Appointment and Removal of the Native Officers of Government in the Judicial, Revenue, and Commercial Departments, and in the Departments of Salt, Opium, and Customs; also to make further Provision for administering the Oath prescribed by the Statute 33rd Geo. III., Cap. 52.	So far as it relates to the appointment of Native Officers employed in the Land Revenue Department, North-Western Provinces.
VIII of 1805 ...	A Regulation for extending to the Conquered Provinces, &c.	So much as has not been repealed.

Number and Year.	Title or abbreviated Title.	Extent of Repeal.
IX of 1805 ...	A Regulation for enacting into a Regulation certain Articles of a Proclamation to be issued in the conquered Provinces situated within the Doab and on the right Bank of the River Jumna, and in the Territory ceded to the Honorable the English East India Company in Bundelcund by the Peishwa.	The whole.
VI of 1806 ...	A Regulation for the more effectual Repair of Embankments.	So much as has not been repealed.
VII of 1807 ...	A Regulation for making certain Alterations in the Provisions which have hitherto been in force in the Province of Benares, respecting Persons paying or wishing to pay their Revenue directly to the Treasury of the Collector, instead of paying it through the Medium of a Tehseeldar.	So much as has not been repealed.
IV of 1808 ...	A Regulation for the Appointment and Administration of the Office of Canoongoe in the Ceded and Conquered Provinces, and in the Province of Benares.	The whole.
VIII of 1809 ...	A Regulation for modifying Parts of the Rules in Force respecting the Appointment and Removal of the Native Officers of Government in the Judicial, Revenue, and Commercial Departments.	So far as it relates to the Land Revenue Department.
V of 1812 ...	A Regulation for amending some of the Rules at present in force for the Collection of the Land Revenue.	The whole, so far as it relates to the North-Western Provinces.
XVIII of 1812 ...	A Regulation for explaining Section II, Regulation V, 1812, and rescinding Sections III and IV, Regulation XLIV, 1793, and Sections III and IV, Regulation L, 1795, and enacting other Rules in lieu thereof.	The whole, so far as it relates to the North-Western Provinces.
XII of 1817 ...	A Regulation for securing the better Administration of the Office of Patwari in the Ceded and Conquered Provinces, the Provinces of Behar and Benares, the District of Cuttack, the Pergunnah of Puttaspore, and its Dependencies.	The whole, so far as it relates to the North-Western Provinces.
I of 1819 ...	A Regulation for replacing the Districts of Dinagore and Rungpore under the management of the Board of Revenue, &c.	The whole, so far as it relates to the North-Western Provinces.
II of 1819 ...	A Regulation for modifying the Provisions contained in the existing Regulations, regarding the Resumption of the Revenue of Lands held free of Assessment under Illegal or Invalid Tenures, &c.	The whole, so far as it relates to the North-Western Provinces.
IV of 1824 ...	A Regulation for authorizing a Collector of Land Revenue or other Officer employed in the Management or Superintendence of any Branch of the Territorial Revenues, to exercise, in certain Cases, the Powers of Magistrate, or Joint-Magistrate, &c.	The whole, so far as it relates to the North-Western Provinces.

SECOND SCHEDULE (Continued.)

Number and Year	Title or abbreviated Title.	Extent of Repeal.
III of 1822 ...	A Regulation for modifying the Constitution, and altering the Jurisdiction of the several Boards vested with the Superintendence of the Land Revenue, in the Territories belonging to the Presidency of Fort William.	The whole, so far as it relates to the North-Western Provinces.
VI of 1822 ...	A Regulation to establish a Court of Wards for Benares, and to define and explain certain of the Rules regarding the Powers and Jurisdiction of the several Courts of Wards.	So much as has not been repealed.
VII of 1822 ...	A Regulation for declaring the Principles according to which the Settlement of the Land Revenue in the Ceded and Conquered Provinces, &c.	The whole, so far as it relates to the North-Western Provinces.
XI of 1822 ...	A Regulation for modifying and explaining the existing Regulations relative to the Sale of Land for the Recovery of Arrears of Revenue, &c.	The preamble and sections two and thirty-six.
IX of 1824 ...	A Regulation to extend, with certain Exceptions and Conditions, the existing Settlement in the Conquered Provinces and in Bundelcund for a further Period of Five Years.	So much as has not been repealed.
IX of 1825 ...	A Regulation for extending the Operation of Regulation VII, 1822, &c.	The whole, so far as it relates to the North-Western Provinces.
XIII of 1825 ...	A Regulation to maintain the Settlement made for certain Lands held exempt from the Payment of Revenue by Cancoongoes, in the Province of Behar, &c.	The whole, so far as it relates to the North-Western Provinces.
XIV of 1825 ...	A Regulation to declare the extent of the Authority possessed by the Revenue Authorities, subordinate to the Governor-General in Council, in the Confirmation of Lakhiraj Tenures, &c.	The whole, so far as it relates to the North-Western Provinces.
III of 1828 ...	A Regulation for the Appointment of Special Commissioners for the more speedy Hearing and Determination of Appeals from the Decisions of the Revenue Authorities, &c.	The whole, so far as it relates to the North-Western Provinces.
IV of 1828 ...	A Regulation to declare and extend the Powers to be exercised by Collectors, when making or revising Settlements, under the Provisions of Regulation VII, 1822.	The whole, so far as it relates to the North-Western Provinces.
I of 1829 ...	A Regulation for constituting Commissioners of Revenue and Circuit, &c.	The whole, so far as it relates to the North-Western Provinces.

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[W. R.]

Number and Year	Title or abbreviated Title.	Extent of Repeal.
IV of 1829 .	A Regulation for modifying, in certain cases, the Rules laid down in Clauses Fourth and Fifth, Section II, Regulation III, 1828, relative to Appeals to the Special Commissioners appointed under that Regulation; also for modifying part of Clause Second, Section X, Regulation I, 1829.	The whole, so far as it relates to the North-Western Provinces.
XI of 1829 .	A Regulation for modifying the Rules in force relative to the Construction and Repair of Embankments.	The whole.
X of 1831 ...	A Regulation for vesting in a Deputation from the Sudder Board of Revenue, to be ordinarily stationed at Allahabad, the exclusive Control over the Revenue Affairs of the Province of Benares, &c.	The whole, so far as it relates to the North-Western Provinces.
IX of 1833 ..	A Regulation to modify certain Portions of Regulation VII of 1822, and Regulation IV of 1828, &c.	Sections two to fifteen, both inclusive.

*Part II.—Acts.*

Act I of 1841 ..	An Act for facilitating the Collection of the Revenue of Government and defining the Interest intended to be conveyed by Public Sales for the Realization of Arrears of the Public Revenue in Putteedary Estates.	So much as has not been repealed.
Act XII of 1841	An Act for amending the Bengal Code in regard to Sales of Land for Arrears of Revenue.	So much as has not been repealed.
Act I of 1845 ...	An Act to amend Act No. XII of 1841, entitled "An Act for amending the Bengal Code in regard to Sales of Land for Arrears of Revenue."	So much as has not been repealed.
Act VIII of 1846	An Act for determining the Duration of the existing Settlement of the North-Western Provinces.	The whole, except as to the settlement of Banda
Act I of 1847 ...	An Act for the Establishment and Maintenance of Boundary-marks in the North-Western Provinces of Bengal.	The whole
Act XXVI of 1854	An Act for making better provision for the education of male minors subject to the superintendence of the Court of Wards.	The whole Act, so far as it applies to the North-Western Province.
Act XXXI of 1858	An Act to make further provision for the Settlement of Land gained by alluvion in the Presidency of Fort William in Bengal.	The whole, so far as it relates to the North-Western Provinces.
Act XLIX of 1868	An Act to consolidate and amend the Law relating to the Partition of Estates paying Revenue to Government in the North-Western Provinces of the Presidency of Fort William in Bengal	The whole, so far as it relates to the North-Western Provinces

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## ACT XX OF 1873.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

*(Received the assent of the Governor-General on the 30th December 1873).**An Act to continue certain privileges and immunities now enjoyed by Prince Azim Jah Bahádur, as Prince of Arcot, to his sons on succeeding to the title.*

V. WHEREAS by Royal Letters Patent, dated the second day of August 1870, under the Sign Manual, Her Majesty the Queen was pleased to confer the title of Prince of Arcot upon Prince Azim Jah Bahádur and

Preamble.

his heirs, as in the said Letters Patent set forth; And whereas in view to maintaining the dignity of the said title, it is expedient to attach to it for some time to come certain privileges and immunities which by Act No. XXXVIII of 1858 are personally attached to the said Prince Azim Jah Bahádur and to certain ladies members of the family of the late Nawáb of the Carnatic, and to prevent the risk of the Prince of Arcot for the time being involving himself in pecuniary liabilities; It is hereby enacted as follows:—

Short title.

1. This Act may be called "The Prince of Arcot's Privilege Act, 1873":

Local extent.

It extends to the whole of British India:

Commencement.

It shall come into force on the passing thereof;

And it shall remain in force so long only as the said title of Prince of Arcot is held by the said Prince Azim Jah Bahádur, or by one of his four sons in the said Letters Patent designated by name as follows:—

Continuance.

Muhammad Badí Ullah:

Ahmad Ullah:

Nur Ullah Míyán; and

Ghulám Muhíy-ul-dín.

2. No civil suit shall be commenced or prosecuted, and no civil writ or process shall be sued forth, in any Court against the person or property of the Prince of Arcot for the time being, unless such suit is commenced, or such writ or process is sued forth, with the previous consent of the Governor of Fort Saint George in Council, such consent to be certified by the signature of one of the Secretaries to the Local Government;

Bar of civil suits, &c., against holder for time being of title of Prince of Arcot, unless with consent of Madras Government.

and any civil suit, writ or process commenced or sued forth against the person or property of any such person as aforesaid, without such consent certified as aforesaid, shall be null and void.

Prince of Arcot for time being to be incapable of contracting.

3. The Prince of Arcot for the time being shall be incapable of entering into any contract which may give rise to any pecuniary obligation on his part.

THE  
**LEGISLATIVE ACTS**

OF THE  
  
GOVERNOR GENERAL OF INDIA  
IN COUNCIL

FOR  
  
1874.

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CALCUTTA:  
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# TITLES

## ACTS PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL IN THE YEAR 1874.

- I. An Act for the quieting of Titles depending on judgments delivered by certain Settlement Officers in the North-Western Provinces.
- II. to consolidate and amend the law relating to the office and duties of Administrator General.
- III. to explain and amend the law relating to certain Married Women, and for other purposes.
- IV. to control recruiting in British India for the service of Foreign States.
- V. to invest the Assistant Commissioner in charge of the Kullu Sub-division of the Kangra District with certain appellate powers.
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- XII. to provide for the exercise, in Sylhet, of the powers of the Lieutenant-Governor and Board of Revenue of Bengal.
- XIII. to provide in the Panjáb and elsewhere for the guardianship of European British Minors.
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THE  
LEGISLATIVE ACTS  
OF THE  
GOVERNOR-GENERAL OF INDIA IN COUNCIL,  
FOR 1874.

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ACT I OF 1874.

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PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

*(Received the assent of the Governor-General on the 10th February 1874.)*

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*An Act for the quieting of Tules depending on judgments delivered by certain  
Settlement Officers in the North-Western Provinces.*

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**WHEREAS**, by Act XIV of 1863, section eight, the Local Government of the North-Western Provinces was empowered to invest any officer employed in making or revising settlements of the land-revenue with the powers of a Collector as described in Act X of 1859, for the decision of suits arising within the local limits of the jurisdiction assigned to such officer, of the nature mentioned in section twenty-three of the same Act, or in the said Act XIV of 1863, while such officer is so employed :

*Preamble.*

And whereas shortly after the passing of the said Act XIV of 1863, the Local Government determined that all Collectors, Assistant Collectors, and Deputy Collectors at any time employed in making or revising settlements, should, during such employment, be invested with the powers described in section eight of the same Act, and after the said determination such officers have in fact exercised such powers from the date of their respective employments in the duties aforesaid, and large numbers of suits of the nature mentioned in the same section have been heard and decided by such officers notwithstanding that their employment commenced subsequently to the year 1863, and notwithstanding that the Local Government may not have expressed their intention to invest them with the said powers otherwise than by appointing them to such employment :

And whereas it has recently been held that certain Deputy Collectors whose employments in settlement-work commenced subsequently to the twenty-first day of April 1863, have not been invested with the said powers :

And whereas, by Act X of 1859, section one hundred and fifty, it is enacted that all the powers vested in the Collector by the preceding sections of that Act may be exercised by any Deputy Collector in cases referred to him by a Collector ; and in all cases of appeal from a decision, by any Deputy Collector placed in charge of any subdivision of a District :

And whereas, by section ten of Act XIV of 1863, it is enacted that if a suit for enhancement of rent be brought before any officer empowered under section eight of that Act to hear the same, such suit shall be heard and determined by such officer, notwithstanding that no notice of enhancement shall have been served under section thirteen of the said Act X of 1859 on the party from whom such enhanced rent is claimed: and that in such case the statement of claim should set forth the grounds on which such enhancement of rent is claimed:

And whereas by Act XXII of 1872, it was enacted that all Deputy Collectors and all other persons theretofore or thereafter invested with all or some of the powers of Deputy Collectors for the purposes of Acts X of 1859 and XIV of 1863, should be deemed to have been or to be (as the case might be) Deputy Collectors in charge of sub-divisions of districts within the meaning of the same Acts, or Assistants to Collectors invested with the powers of Deputy Collectors in such charge: and it was also enacted that all suits preferred and applications made to, and orders made and acts done by, such Deputy Collectors and other persons in the exercise of such powers should be deemed to have been and to be as duly preferred, made and done as if the said Deputy Collectors and other persons had been Deputy Collectors in charge of sub-divisions of districts within the meaning of the same Acts:

And whereas, by force of the said Acts, all Deputy Collectors in the North-Western Provinces have, ever since Act X of 1859 came into force, been of like authority with Deputy Collectors in charge of sub-divisions, and, as such, have had jurisdiction to hear all suits of the nature mentioned in section twenty-three of that Act and in Act XIV of 1863, and all Collectors have had and have exercised very largely the power of referring to Deputy Collectors subordinate to them cases brought in the first instance before themselves:

And whereas, since the passing of Act XXII of 1872, it has been held that a Deputy Collector not invested with powers under section eight of Act XIV of 1863, has not any jurisdiction to hear suits of the nature mentioned in section twenty-three of Act X of 1859:

And whereas it has also recently been held that the said Act XXII of 1872 has no operation in cases in which a decision has been delivered contrary to the true meaning of the said Acts X of 1859 and XIV of 1863, as declared in Act XXII of 1872, but prior to the passing of Act XXII of 1872:

And whereas, ever since the passing of Act XIV of 1863, officers invested with the powers of Collectors under section eight of that Act have been in the habit of exercising the said power conferred on Collectors by section one hundred and fifty of Act X of 1859, and of referring to Deputy Collectors employed as aforesaid suits of the nature mentioned in section eight of Act XIV of 1863 for the purpose of having such suits heard and decided by such Deputy Collectors, and great numbers of suits have been so heard and decided:

And whereas it has recently been held that officers engaged in making or revising settlements, and invested with the powers of Collectors under section eight of Act XIV of 1863, have not the power of referring suits to Deputy Collectors; and also that, if a suit for enhancement of rent be brought before such an officer, he is bound by section ten of Act XIV of 1863 to hear and determine it in person:

And whereas, by the effect of such holdings, great numbers of decisions in suits of the nature mentioned in section eight of Act XIV of 1863 have become open to question, and for the quieting of titles, and the avoidance of litigation, it is necessary that the validity of such decisions should be affirmed, and that the meaning of the said Acts should be declared:

And whereas it is apprehended that other objections may be made to the authority of officers who, either in the first instance or on appeal, have decided suits of the nature mentioned in Act XIV of 1863, and it is expedient that such decisions should not be impeached for want of authority in such officers:

And whereas it is believed that many decisions passed by officers engaged in making or revising settlements have, since the dates of the holdings aforesaid, been declared or treated by certain Appellate Courts as void for want of authority in such officers, and it is expedient that the parties concerned should not, by reason of such declaration or treatment, find it necessary or expedient to appeal from the decisions of such Courts:

It is hereby enacted as follows :—

1. All officers who, since the twenty-first day of April 1863, have been employed in making or revising settlements, and who have legally been invested with, or have in fact exercised, the powers of Collector, Assistant Collector or Deputy Collector, have been, and are, invested with the powers described in section eight of Act XIV of 1863, during the term of such employment.

Power of Collectors to refer cases to Deputy Collectors.

2. By section one hundred and fifty of Act X of 1859, it was intended, and has always been the law, that Collectors should refer to Deputy Collectors such of the cases brought before themselves as they think fit.

3. By section eight of Act XIV of 1863, it was intended that when the officers therein mentioned have been invested with the powers therein mentioned, they should have, and it has always been the law that they have had, the whole, and not a portion only, of such powers, and in particular the power of reference conferred on Collectors by Act X of 1859, section one hundred and fifty.

Act XIV of 1863, section 8, explained.

4. The meaning of section ten of Act XIV of 1863 was, and has always been, that in the suits therein mentioned the want of such notice as therein mentioned shall not be a bar to the progress of the suit, and not that the suits therein mentioned must be heard and decided by the same officer from the beginning to the end.

Act XIV of 1863, section 10 explained.

5. All suits heard and decided by any officers in pursuance of the said Acts and of the intentions of the said Local Government as herein explained, have been heard and decided by proper authority, and the decisions given in such suits are valid decisions subject only to such appeals as are by law provided.

Suits heard by officers pursuant to the said Acts, to be deemed properly heard.

6. No decision made, whether in the first instance or on appeal, by any Collector, Assistant Collector, Deputy Collector or other officer purporting to act under the provisions of Act X of 1859 or Act XIV of 1863 in any suit of the nature mentioned in section twenty-three of Act X of 1859 or in Act XIV of 1863 shall be impugned or deprived of effect by reason of the objection that such officer did not possess the jurisdiction legally necessary for passing such decision; but all such decisions shall be dealt with by every Appellate Court as if they had been made by a tribunal possessing the authority to entertain and decide the suit.

Decisions of officers acting under said Acts in certain suits validated

7. Every suit instituted, or question arising, under Act X of 1859 or Act XIV of 1863, which comes before any Court of Justice, shall be decided in accordance with this Act and in accordance with Act XXII of 1872, at whatever time such suit may have been commenced, or such question may have arisen, and at whatever time any decision may have been delivered affecting such suit or question.

Suits to be decided in accordance with this Act and Act XXII of 1872.

8. Every decree or order of an Appellate Court made on or after the first day of January 1871, which has declared or treated any judicial order or proceeding of an officer employed in making or revising a settlement to be void for want of authority in such officer, is hereby declared to be itself void, and all such orders and proceedings of such officers shall be deemed to be as valid as if no such decree or order declaring them to be void for want of authority had been passed in appeal:

Validation of orders and proceedings of Settlement Officers declared void on appeal.

Provided that whenever the merits of the case constituted any portion of the grounds of appeal, and the appellant, who has succeeded on the ground of want of authority in the Court of first instance, desires to prosecute his appeal on the merits, and applies to the Appellate Court for that purpose within ninety days after the passing of this Act, the Appellate Court shall resume the hearing of the appeal and proceed to determine it on the merits:

Provided also that the provisions of this section shall not apply to any case in which the holder of a decree treated as invalid for want of authority as aforesaid has, before the passing of this Act, obtained a decree in a competent Court in another suit upon the same cause of action.

9. In construing the said Acts, and in deciding on the validity of judicial proceedings thereunder, all Judges and Courts of Justice shall have regard to the practice which has actually prevailed, and shall also, in the absence of evidence or express law to the contrary, presume that what purports to have been done by public authority has been rightly done.

Local extent.  
Commencement.

10. This Act extends only to the territories under the government of the Lieutenant-Governor of the North-Western Provinces, and shall come into force at once.

## THE ADMINISTRATOR GENERAL'S ACT, 1874.

### ARRANGEMENT OF SECTIONS.

#### PREAMBLE.

#### PART I.

##### PRELIMINARY.

#### SECTIONS.

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2. Repeal of Acts.
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6. Qualification of future and continuance of existing incumbents.
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8. Probates, &c., granted by Supreme Courts to Ecclesiastical Registrars to have same effect as if granted to Administrator General.
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**SECTIONS.**

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21. Administrator General in certain cases to secure and distribute the effects of soldiers.  
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 48. Costs of preparing schedules, &c., how to be paid.  
 49. Auditors to report specially to Government if accounts appear incorrect.  
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#### PART VI.

**MISCELLANEOUS.**

57. Power to make rules—  
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 For guidance of Administrator General.  
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 58. Publication of new rules.  
 59. Power to decide when commission shall be deemed payable.  
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 63. Mode of proceeding by claimant to recover principal money so transferred.  
 64. District Judge in certain cases to take charge of property of deceased persons, and to report to Administrator General.  
 65. Act not to require administration of estates of soldiers, unless Administrator General authorized by Military Secretary or Committee of Adjustment.  
 66. Indian Succession Act and Indian Companies' Act not to affect Administrator General.  
 Saving of provisions of Presidency Police Acts as to petty estates.

ACT II OF 1874.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 10th day of February 1874.)

*An Act to consolidate and amend the law relating to the office and duties of Administrator General.*

WHEREAS it is expedient to consolidate and amend the law relating to the office and duties of Administrator General; It is hereby enacted as follows :—

Preamble.

PART I.

PRELIMINARY.

1. This Act may be called "The Administrator General's Act, 1874."

It extends to the whole of British India and, so far as regards British subjects of Her Majesty, to the dominions of Princes and States in India in alliance with Her Majesty;

Local extent. And it shall come into force at once.

2. Act No. XXIV of 1867 (to consolidate and amend the law relating to the office and duties of Administrator General) and Act No. XIX of 1869 (to facilitate administration to the estates of deceased

British subjects in the Hyderabad Assigned Districts) and Act No. V of 1870 (so far as it relates to the Administrator General) are hereby repealed.

All things duly done under any of the enactments hereby repealed shall be considered as having been done under this Act.

3. In this Act—unless there be something repugnant in the subject or context—

Interpretation-clause. "Presidency of Bengal." "Presidency of Bengal" includes

(a) the territories for the time being respectively under the governments of the Lieutenant-Governors of Bengal, the North-Western Provinces, and the Panjáb;

(b) the territories for the time being respectively under the administrations of the Chief Commissioners of Oudh, the Central Provinces, British Burma, Ajmer and Mairwara, Assam and the Andaman and Nicobar Islands;

(c) such of the dominions of Princes and States aforesaid as the Governor-General in Council may, by notification in the *Gazette of India*, from time to time direct;

"Presidency of Madras." "Presidency of Madras" includes

(a) the territories for the time being under the government of the Governor of Fort St. George in Council;

(b) such of the dominions aforesaid as the Governor-General in Council may, by notification in the *Gazette of India*, from time to time direct;

(c) Coorg;

(d) Mysore;

"Presidency of Bombay." "Presidency of Bombay" means

(a) the territories for the time being under the government of the Governor of Bombay in Council;

(b) such of the dominions aforesaid as the Governor-General in Council may, by notification in the *Gazette of India*, from time to time direct;

(c) the Hyderabad Assigned Districts;

"Presidency Town." "Presidency Town" means the town of Calcutta, Madras or Bombay, as the case may be;

"Government" means the Governor-General in Council, so far as the Act relates to the Presidency of Bengal; the person for the time being

"Government," administering the executive government of the Presidency of

Fort St. George, so far as the Act relates to the Presidency of Madras; and the person for the time being administering the executive Government of the Presidency of Bombay, so far as the Act relates to the Presidency of Bombay:

"Letters of Administration." administration, whether general or limited, or with a Will annexed, and letters *ad colligenda bona*:

"Next-of-kin" includes a widower or widow of a deceased person, or any other person who, by law and according to the practice of the Courts, would be entitled to letters of administration in preference to a creditor

or legatee of the deceased:

"Officer."

"Officer" means a commissioned officer of Her Majesty's Army, or of Her Majesty's Indian Army:

"Soldier" means a soldier of Her Majesty's Army, or European soldier of

"Soldier."

Her Majesty's Indian Army, including a warrant and a non-commissioned officer:

"Assets."

"Assets" includes immoveable as well as moveable property.

## PART II.

### OF THE OFFICE OF ADMINISTRATOR GENERAL.

Designation of the Administrators General in the three Presidencies.

4. In each of the Presidencies of Bengal, Madras, and Bombay, there shall be an Administrator General.

The said Administrators General shall be called respectively the Administrator General of Bengal, the Administrator General of Madras, and the Administrator General of Bombay.

Appointment, suspension, and removal of Administrators General.

5. Such officers shall be appointed and may be suspended or removed by the authorities hereinafter mentioned respectively; that is to say:—

The Administrator General of Bengal, by the Governor-General in Council:

The Administrator General of Madras, by the Government of Fort St. George; and

The Administrator General of Bombay, by the Government of Bombay.

Qualification of future and continuance of existing incumbents

6. Any person hereafter appointed to the office of Administrator General or officiating Administrator General of any of the said Presidencies shall be a member of the Bar of England or Ireland, or of the Faculty of Advocates in Scotland; but any person now holding such office shall continue to hold the same, subject to the provisions contained in the other sections of this Act.

Administrator General not an officer of High Court.

7. The Administrator General shall not be deemed in that capacity to be an officer of any High Court.

8. All probates and letters of administration granted by any of the late Supreme Courts of Judicature to the Ecclesiastical Registrar of such Court in virtue of his office, shall have the same effect in all respects as to any act hereafter to be done or required to be done under this Act, as if they had been granted to the Administrator General.

No Administrator General to be Ecclesiastical Registrar.

Administrator General not to hold any other office without sanction of Government.

9. No person now holding the office of Administrator General, or hereafter to be appointed to such office in any of the said Presidencies, shall hold the office of Ecclesiastical Registrar; nor, without the express sanction of Government, any other office together with that of Administrator General:

Provided that the Administrator General of the Presidency may be appointed Official Trustee under Act No. XVII of 1864 (to constitute an office of Official Trustee):

Provided also, that the Administrator General of Bengal may hold the office of Receiver of the High Court of Judicature at Fort William.

10. It is hereby declared to be an offence punishable in manner provided by section one hundred and sixty-eight of the Indian Penal Code, for any Administrator General to trade or traffic for his own benefit, or for the benefit of any other person, unless so far as appears to him to be expedient for the due management of the estates which

Penalty for trading.

Exception.

come into his charge under the provisions of this Act, and for the sole benefit of the several persons entitled to the proceeds of such estates respectively; but this exception is not to be construed to alter the civil liabilities of the Administrator General as trustees of such estates.

11. Unless the Governor-General in Council, or the Government, with the sanction of the Governor-General in Council, otherwise orders,

Security to be given by Administrator General.

every Administrator General hereafter to be appointed shall give security to the Secretary of State for India for the due execution of his office, for one l  kh of rupees by his own bond, and for another l  kh of rupees, or for separate sums amounting together to one l  kh of rupees by the deposit of Government securities, or by the joint and several bond or bonds of two or more sureties to be approved by Government, or partly by such deposit and partly by such bond or bonds:

Provided that every Administrator General may, with the consent of Government, substitute either of the said two last-mentioned kinds of security for another previously given for such last-mentioned l  kh or any part of it;

and every Administrator General may, with the consent of Government, and shall from time to time when required by Government so to do, cause fresh sureties to be substituted for any of those previously bound, so far as the security relates to the due execution of his office for the time then to come.

12. No Administrator General shall be required by any Court to enter into any administration bond, or to give other security to the Court, on the grant of any letters of administration to him in virtue of his office.

No Administrator General shall be required to verify, otherwise than by his signature, any petition presented by him under the provisions of this Act, and if the facts stated in any such petition are not within the Administrator General's own personal knowledge, the petition may be subscribed and verified by any person competent to make the verification.

Whoever makes a statement in any such petition which is false, and which he either knows or believes to be false, or does not believe to be true, shall be deemed to have intentionally given false evidence in a stage of a judicial proceeding.

13. Whenever any person holding the office of Administrator General obtains leave of absence, the Government may appoint some person to officiate as Administrator General, and such person, while so officiating, shall be subject to the same conditions and be bound by the same responsibilities as the Administrator General by any law for the time being in force, and he shall be deemed to be Administrator General for the time being under this Act, and shall be liable to give security under section eleven in like manner as if he had been appointed Administrator General.

Appointment of officiating Administrator General.

### PART III.

#### OF THE RIGHTS, POWERS, AND DUTIES OF THE ADMINISTRATOR GENERAL.

##### (a.)—Grants of Letters of Administration and Probate to the Administrator General.

14. So far as regards the Administrator General of any of the Presidencies of Bengal, Madras, and Bombay, the High Court at the Presidency town shall be deemed to be a Court of competent jurisdiction within the meaning of sections one hundred and eighty-seven and one hundred and ninety of the Indian Succession Act, 1865, wheresoever within the Presidency the property to be comprised in the probate or letters of administration may be situate.

As regards Administrator General, High Court at Presidency town to be deemed a Court of competent jurisdiction within meaning of Act X of 1865, sections 187 and 190.

15. Any letters of administration, or letters *ad colligenda bona*, hereafter be granted by the High Court of Judicature at any Presidency town, shall be granted to the Administrator General of the Presidency, unless they are granted to the next-of-kin of the deceased.

Administrator General entitled to letters of administration, unless granted to next-of-kin.

The Administrator General of the Presidency shall be deemed by all the Courts in the Presidency to have a right to letters of administration in preference to that of any person merely on the ground of his being a creditor, a legatee other than an universal legatee, or a friend of the deceased.

Administrator General entitled in preference to creditor, non-universal legatee or friend.

16. If any person, not being a Hindu, Muhammadan or Buddhist, or a person exempted under the Indian Succession Act, 1865, section three hundred and thirty-two, from the operation of that Act, shall have died, whether within any of the said Presidencies or not, and whether before or after the passing of this Act, and shall have left assets exceeding at the date of the death or within one year thereafter the value of one thousand rupees within any of the said Presidencies,

and if no person to whom the Court would have jurisdiction to commit administration of such assets has, within one month after his death, applied in such Presidency for probate of his Will, or for any letters of administration of his estate,

the Administrator General of the Presidency in which such assets are, shall, within a reasonable time after he has had notice of the death of such person, and of his having left such assets as aforesaid, take such proceedings as may be necessary to obtain from the High Court at the Presidency town, letters of administration to the effects of such person, either generally or with a Will annexed, as the case may require.

Whenever the Administrator General of the Presidency takes proceedings under this section, it shall be sufficient if the petition required by section two hundred and forty-six of the Indian Succession Act, 1865, states

(a) the time and place of the deceased's death to the best of the petitioner's knowledge or belief,

(b) that the deceased left some property within the Presidency as hereinbefore defined, and

(c) the amount or value of assets which are likely to come into the petitioner's hands.

17. Whenever any person, whether a Hindu, Muhammadan or Buddhist, or not, shall have died leaving assets within the local limits of the ordinary original civil jurisdiction of the High Court at the Presidency town, it shall be lawful for the Court,

Power to direct Administrator General to apply for administration.

upon the application of any person interested in such assets, or in the due administration thereof, either as a creditor, legatee, next-of-kin or otherwise, or

upon the application of a friend of any minor so interested, or

upon the application of the Administrator General,

if the applicant satisfies the Court that danger is to be apprehended of the misappropriation, deterioration or waste of such assets unless letters of administration of the effects of such person are granted,

to make an order, upon such terms as to indemnifying the Administrator General against costs and other expenses as the Court thinks fit, directing the Administrator General to apply for letters of administration of the effects of such person :

Provided that, in the case of an application being made under this section for letters of administration to the effects of a deceased Hindu, Muhammadan or Buddhist, or person exempted as aforesaid, the Court may refuse to grant letters of administration to any person, if it be satisfied that such grant is unnecessary for the protection of the assets, and in such case the Court shall make such order as to the costs of the application as it thinks just.

Administration to effects of Hindu, &c., when granted under this section.

Costs of unnecessary application.

18. Whenever any person, whether a Hindu, Muhammadan or Buddhist, or not, shall have died, whether before or after the passing of this Act, leaving assets within the local limits of the ordinary original civil jurisdiction of any of the said High Courts, and such Court is satisfied that danger is to be apprehended of the misappropriation, deterioration or waste of such property, before it can be

Power to enjoin Administrator General to collect and hold assets until rights of succession or administration is ascertained.

ascertained who may be legally entitled to the succession to such property, or whether the Administrator General is entitled to letters of administration to such deceased person, the Court may authorize and enjoin the Administrator General to collect and take possession of such property, and to hold or deposit or invest the same according to the orders and directions of the Court, and in default of any such orders or directions, according to the provisions of this Act so far as the same are applicable to such property ;

and the Administrator General shall be entitled to a commission of one *per centum* Rate of commission upon the amount of all moveable assets collected or received by him in pursuance of such order, and also to reimburse himself for all payments made by him in respect of the assets which a private administrator of such assets might lawfully have made ;

and in case letters of administration of any such property are afterwards granted to the Administrator General, the said commission of one *per centum* shall be deemed a part payment of the commission payable to the Administrator General under the letters of administration.

Any order of Court made under the provisions of this section, shall entitle the Administrator General to collect and to take possession of such property, and, if necessary, to maintain a suit for the recovery thereof.

19. If in the course of proceedings to obtain letters of administration under the provisions of section sixteen or section seventeen,

Probate to be granted to executor appearing in the course of proceedings taken by Administrator General.

any executor appointed by a Will of the deceased appears according to the practice of the Court and proves the Will and accepts the office of executor,

or if any person appears according to such practice and makes out his claim to letters of administration as next-of-kin of the deceased, and gives such security as is required of him by law or by the practice of the Court,

Costs of proceedings taken by Administrator General to be paid out of estate.

the Court shall grant probate of the Will or letters of administration accordingly, and shall award to the Administrator General his costs of the proceedings so taken by him, to be paid out of the estate as part of the testamentary or intestate expenses thereof.

If no executor or next-of-kin appear or give necessary security, administration to be granted to Administrator General.

20. If no person appears according to the practice of the Court, and entitles himself to probate of a Will, or to a grant of letters of administration as next-of-kin of the deceased,

or if the person who entitles himself to a grant of administration neglects to give such security as may be required of him by law or according to the practice of the Court,

the Court shall grant letters of administration to the Administrator General.

21. The Administrator General shall, when duly authorized or required so to do by the Military Secretary to Government, secure and distribute the assets of the estate and effects of any officer, soldier, or other person subject to any Articles of War, in all cases in which such estate and effects do not exceed in the whole five hundred rupees, charging the estate with a commission of three *per centum* only.

It shall not be necessary for the Administrator General to take out letters of administration in cases referred to in this section : but he shall have the same powers with regard to all such assets as he would have had if he had taken out such letters.

Proviso.

22. When the Administrator General applies for letters of administration to the effects of any officer, soldier or other person, subject to the Articles of War, the Court may grant to him letters of administration limited to the purpose of dealing with such effects in accordance with the provisions of the Regimental Debts Act, 1868, or any other law for the time being in force relating to the payment of regimental debts and the distribution of the effects of officers dying on service.

Administrator General not precluded from applying for letters in any case within one month after death.

23. Nothing in this Act is intended to preclude the Administrator General from applying to the Court for letters of administration in any case within the period of one month from the death of the deceased.

**24.** If any letters of administration, granted to the Administrator General under the provisions of this Act, be revoked or recalled, the same shall, so far as regards the Administrator General and all persons acting under his authority in pursuance thereof, be deemed to have been only voidable; except as to any act done by any such Administrator General or other person as aforesaid, after notice of a Will or of any other fact which would render such letters void:

**Exception.**

Provided that no notice of a Will or of any other fact which would render any such letters void, shall affect the Administrator General or any person acting under his authority in pursuance of such letters, unless, within the period of one month from the time of giving such notice, proceedings be commenced to prove the Will, or to cause the letters to be revoked, nor unless such proceedings be prosecuted without unreasonable delay.

**25.** If any letters of administration granted under this Act be revoked upon the production and proof of a Will, all payments made or acts done by or under the authority of the Administrator General in pursuance of such letters of administration prior to the revocation thereof, which would have been valid under any letters of administration lawfully granted to him with such Will annexed, shall be deemed valid notwithstanding such revocation.

**26.** If an executor or next-of-kin of the deceased, who has not been personally served with a citation, or who has not had notice thereof in time to appear pursuant thereto, establish to the satisfaction of the Court a claim to probate of a Will or to letters of administration in preference to the Administrator General, any letters of administration granted by virtue of this Act to the Administrator General may be recalled and revoked, and probate may be granted to such executor, or letters of administration granted to such other person as aforesaid:

Provided that no letters of administration granted to the Administrator General shall be revoked or recalled for the cause aforesaid, except in cases in which a Will or codicil of the deceased is proved in the Presidency, unless the application for that purpose be made within six months after the grant to the Administrator General, and the Court be satisfied that there has been no unreasonable delay in making the application, or in transmitting the authority under which the application is made.

**27.** If any letters of administration granted to the Administrator General in pursuance of this Act be revoked, the Court may order the costs of obtaining such letters of administration, and the whole or any part of any commission which would otherwise have been payable under this Act, together with the costs of the Administrator General in any proceedings taken to obtain such revocation, to be paid to or retained by the Administrator General out of any assets belonging to the estate:

Provided that, in any such case, when the deceased has left a Will appointing an executor, and probate of the Will has been granted by any Court in the Presidency to such executor within three months after the death, or when the widow or next-of-kin has, within one month if resident within the Presidency, or within three months if resident beyond the Presidency, obtained from any such Court letters of administration to the estate and effects of the deceased, then and in either of such cases the Administrator General shall (without prejudice to the provisions contained in sections seventeen and eighteen) not be entitled to receive or retain any commission out of any assets belonging to such estate and situate within the jurisdiction of the Court by which probate or administration has been granted as last aforesaid.

**28.** Whenever the Administrator General declares a dividend among such creditors of the deceased as have proved their debts, and notifies the payment of such dividend by advertisement in the official Gazette, no creditor of the deceased who has not previously to such declaration and advertisement proved his debt, shall be entitled to participate as such in the assets wherewith such dividend is made.

**Exclusion of creditors who have not proved, from assets with which a dividend is made.**

Any payment or delivery of assets to any legatee or to any person entitled in distribution, which is made by an Administrator General after the expiration of one year from the grant of the letters of administration under which such payment or delivery is made, shall be allowed to the Administrator General as against all creditors and other claimants against the estate, of whose debts or claims he has not had notice before making such payment or delivery :

Provided that nothing herein contained shall exempt the person to whom such payment or delivery is made, from any liability to refund to which he would otherwise be liable :

Person receiving payments liable to refund.  
Provided also, that no notice of any debt or claim shall affect the Administrator General, unless proceedings to enforce the debt or claim are commenced within one month after the giving of such notice, and are prosecuted without unreasonable delay.

Letters of administration to be granted to Administrator General by his name of office.  
29. All letters of administration granted to any Administrator General in virtue of his office shall be granted to him by his name of office,

and all letters of administration heretofore granted to the Ecclesiastical Registrar or Administrator General officially, or granted to any Administrator General in virtue of his office, shall authorize the Administrator General for the time being of the same Presidency to act as administrator of the estate to which such letters relate.

30. Every probate granted to any Administrator General of a Will wherein he is named as executor by virtue of his office, shall be granted to him by his name of office, and shall authorize the Administrator General for the time being of the same Presidency to act as executor of the estate to which such probate relates.

31. Any private executor or administrator, may, with the previous consent of the Administrator General of the Presidency in which the property comprised in the probate or letters of administration is situated, by an instrument in writing under his hand, bearing a stamp of ten rupees and notified in the local Gazette, transfer all estates, effects and interests vested in him by virtue of such probate or

letters to the Administrator General by his name of office ;  
and thereupon the transferor shall be exempt from all liability as such executor or administrator, as the case may be, for any act or omission in respect of the said property after the date of the said transfer :

and the Administrator General for the time being shall have the rights and be subject to the liabilities which he would have had, and to which he would have been subject, if the probate or letters of administration, as the case may be, had been granted to him by his name of office at the date aforesaid.

Nothing herein contained shall be taken to exempt any such transferor from liability for acts and omissions in respect of the said property prior to the transfer.

32. Whenever the Administrator General carries over assets to separate accounts in his books, he shall notify the fact in the local official Gazette ; and he may, with the consent of the Official Trustee, and subject to such rules as the Governor-General in Council may, from time to time prescribe in this behalf, appoint the Official Trustee to be the trustee of such assets ; and upon such appointment such assets shall vest in the Official Trustee and his successors in office, and be held by him and them upon the same trusts as the same assets were held immediately before such appointment. And for the purposes of Act No. XVII of 1864 such assets shall be deemed to have been vested in the Official Trustee under section ten of that Act.

33. All estates, effects and interests which, at the time of the death, resignation or removal from office of any Administrator General, are vested in him by virtue of such letters of administration, probates or transfers as aforesaid, shall, upon every such death, resignation or removal, cease to be vested in him, and shall vest in his successor in office immediately upon his appointment thereto.



\* All books, papers and documents kept by such Administrator General by virtue of his office or as such executor or transferee as aforesaid, shall be transferred to and vested in his successor in office.

(b).—*Suits by and against the Administrator General.*

Administrator General to sue and be sued in his name of office.

Suit not to abate by death, &c.

34. All suits and other proceedings commenced by or against any Administrator General in his representative character, may be brought by or against him by his name of office, and no suit or other proceeding heretofore or hereafter commenced by or against any person as Administrator General, either alone or jointly with any other person, shall abate by reason of the death, resignation or removal from office of any such Administrator General, but the same may, by order of the Court, and upon such terms as to the service of notices or otherwise as the Court may direct, be continued by or against his successor immediately upon his appointment, in the same manner as if no such death, resignation or removal had occurred :

Provided that nothing hereinbefore contained shall render any such successor personally liable for any costs incurred prior to the order for continuing the suit against him.

Proviso as to costs.

\* 35. If any suit be brought by a creditor against any Administrator General in his representative character, the plaintiff shall be liable to pay the costs of the suit down to and including the decree, unless upon proof by affidavit or otherwise that not less than one month previous to the institution of the suit he had applied in writing to the Administrator General, stating the amount and other particulars of the claim, and supporting the same by such evidence as, under the circumstances of the case, the Administrator General was reasonably entitled to require, and that the Administrator General had refused or neglected to register the claim according to the practice of his office.

If in any such suit judgment is pronounced in favor of the plaintiff, he shall, nevertheless, be only entitled to payment out of the assets of the deceased equally and rateably with the other creditors.

(c).—*Grant of Certificates by the Administrator General.*

36. Whenever any person, not being a Hindú, Muhammadan or Buddhist, or exempted under the Indian Succession Act, 1865, section three hundred and thirty-two, from the operation of that Act, shall have died, whether within any of the said Presidencies or not, whether before or after the passing of this Act, and whether testate or intestate, and shall have left assets (whether moveable, or immoveable, or both) within any of the said Presidencies, and the Administrator General of such Presidency is satisfied that such assets do not exceed in the whole one thousand rupees in value, he may, after the lapse of one month from the death if he thinks fit, or before the lapse of the said month, if he is requested so to do by writing under the hand of the executor or the widow or other person entitled to administer the effects of the deceased, grant to any person claiming otherwise than as a creditor to be entitled to a share of such assets, certificates under his hand entitling the claimant to receive the property therein mentioned, belonging to the estate of the deceased, to a value not exceeding in the whole one thousand rupees :

No certificate to be granted where probate or administration taken out, or in respect of money in Government Savings Bank.

Provided that no certificate shall be granted under this section where probate of the deceased's Will or letters of administration of his effects has or have been granted, or in respect of any sum of money deposited in a Government Savings Bank.

37. If in cases falling within section thirty-six, no person claiming otherwise than as a creditor to be entitled to a share of the effects of the deceased obtains, within three months, a certificate from the Administrator General under the same section, or letters of

\* administration to the estate and effects of the deceased, the Administrator General may administer the estate and effects without letters of administration, in the same manner as if such letters had been granted to him ;

and if he neglect or refuse to take upon himself the administration of the estate and effects, he shall, upon the application of a creditor and upon being satisfied of his title,

grant a certificate in the same manner as if such creditor were entitled to a share of the effects of the deceased,

and such certificate shall have the same effect as a certificate granted under the provisions of the same section, and shall be subject to all the provisions of this Act which are applicable to such certificate :

Provided that the Administrator General may, before granting such certificate, if he think fit, require the creditor to give reasonable security for the due administration of the estate and effects of the deceased.

**38.** The Administrator General shall not be bound to grant any such certificate, unless he be satisfied of the title of the claimant and of the value of the assets of the deceased, either by the oath or affirmation of the claimant (which oath or affirmation the Administrator General is hereby authorized to administer or take), or by such other evidence as he requires.

Administrator General not bound to grant certificate unless satisfied of claimant's title, &c.

**39.** A copy of any such certificate with a receipt annexed shall, when such copy and receipt are signed by the person to whom the certificate has been granted, be a full discharge for payment or delivery to him of the money or security for money therein mentioned, to the person paying or delivering the same :

Copy of certificate with receipt annexed, when signed by certificate-holder, to be a discharge.

but nothing in this Act shall preclude any executor or administrator of the deceased from recovering, from the person receiving the same, the amount remaining in his hands after deducting the amount of all debts or other demands lawfully paid or discharged by him in due course of administration.

Right of executor or administrator against certificate-holder.

And any creditor or claimant against the estate of the deceased shall be at liberty to recover his debt or claim out of the assets received by such person and remaining in his hands unadministered, in the same manner and to the same extent as if such person had obtained letters of administration to the estate of the deceased.

Right of creditor against assets in hands of certificate-holder.

**40.** The Administrator General shall not be bound to take out letters of administration to the estate of any deceased person on account of the effects in respect of which he grants any such certificate, but he may do so if he discover any fraud or misrepresentation made to him, or that the value of the estate exceeded one thousand rupees.

Administrator General not bound to take out administration on account of effects in respect of which he has granted certificate.

**41.** For every such certificate the Administrator General shall be entitled to charge a fee calculated after the rate of three rupees in the hundred on the amount mentioned in the certificate.

Fee for certificate.

*(d).—Expenses of the Administrator General's Establishment.*

**42.** The Administrator General shall defray all the expenses of the establishment necessary for his office, and all other charges to which the said office is subject, except those for which express provision is made by this Act.

Administrator General to defray expenses of establishment.

*(e).—Accounts and Schedules.*

**43.** The Administrator General of each of the said Presidencies shall enter into books to be kept by him for that purpose, separate and distinct accounts of each estate, and of all such sums of money, bonds and other securities for money, goods, effects and things as come to his hands, or to the hands of any person employed by him or in trust for him under this Act ; and likewise of all payments made by him on account of such estate, and of all debts due by or to the same, specifying the dates of such receipts and payments respectively.

Administrator General to keep separate account for each estate, to be open to inspection on payment of fee.

Such books shall be kept in the Administrator General's office, and shall be open for the inspection of all such persons, practitioners in the said Courts and others, as may have occasion to inspect the same, at office hours, paying only such reasonable fee for the time being fixed by the Government and published in the official Gazette of the Presidency to which the same may relate.

44. The Administrator General of each of the said Presidencies shall twice in every year, that is to say, on or before the first day of April, and on or before the first day of October, or on such other days as the Government, by any rules or orders to be published as aforesaid, may direct, exhibit and deliver, in the High Court at Calcutta, Madras or Bombay, as the case may be,

(a) a schedule showing the gross amount of all sums of money received or paid by him on account of each estate in his charge, and the balances, during the period of six months ending severally on the thirty-first day of December and thirtieth day of June next before the day of delivering such schedule,

(b) a list of all bonds or other securities received on account of each of the said estates during the same period,

(c) a schedule of all administrations whereof the final balances have been paid over to the persons entitled to the same, during the same period, specifying the amount of such balances and the persons to whom paid.

Such schedules shall be filed of record in such High Court, and shall, within four-teen days afterwards, be published in the official Gazette of the Presidency by the Administrator General;

and copies thereof in triplicate shall be delivered by such Administrator General to the Government, and shall be sent by such Government to the Secretary of State for India, in order that such Secretary may, if he think fit, order the same to be deposited at the India Office for public inspection, and cause notices to be published in the *London Gazette* and other leading newspapers, that such schedules are open to inspection there, or make such other orders respecting the same as he thinks fit.

## PART IV.

### OF THE AUDIT OF THE ADMINISTRATOR GENERAL'S ACCOUNTS.

45. The Government shall from time to time appoint auditors to examine the accounts of the Administrator General at the times of the delivery of the said schedules, and also at any other time when the Government thinks fit.

46. The auditors shall examine the schedules and accounts, and report to the Government—  
Auditors to examine schedule, and report to Government.

(a) whether they contain a full and true account of every thing which ought to be inserted therein,

(b) whether the books which by this Act, or by any such general rules and orders as hereinafter mentioned, are directed to be kept by the Administrator General, have been duly and regularly kept, and

(c) whether the assets and securities have been duly kept and invested and deposited in the manner prescribed by this Act, or by any such rules and orders to be made as aforesaid.

47. Every auditor shall have power to summon as well the Administrator General as any other person whose presence he thinks necessary, to attend him from time to time; and to examine the Administrator General or other person if he thinks fit, on oath or affirmation to be by him administered: and to call for all books, papers, vouchers and documents, which appear to him to be necessary for the purposes of the said reference.

If the Administrator General or other person when summoned refuses, or, without reasonable cause, neglects to attend or to produce any book, paper, voucher or document so required, or attends and refuses to be sworn or make an affirmation, or refuses to be examined, the auditors shall certify such neglect or refusal in writing to the High Court at the Presidency town;

and every person so refusing or neglecting shall thereupon be punishable in like manner as if such refusal or neglect had been in contempt of the said High Court.

48. The costs and expenses of preparing and publishing the said schedules and copies thereof, and of every such reference and examination as aforesaid, shall be defrayed by all the estates to which such schedules or accounts relate.

Such costs and expenses, and the portion thereof to be contributed by each of the said estates, shall be ascertained and settled by the auditors, subject to the approval of the Government, and shall be paid out of the said estates accordingly by the Administrator General.

49. If upon any such reference and examination the auditors see reason to believe that the said schedules do not contain a true and correct account of the matters therein contained or which ought to be therein contained, or that the assets have not been duly kept and invested or deposited in the manner directed by this Act, or by any such rules and orders as aforesaid, or that the Administrator General has failed to comply with the provisions and directions of this Act or of any such rules and orders, they shall report accordingly to the Government.

50. The Government may refer every such report as last aforesaid to the consideration of the Advocate General for the Presidency, who shall thereupon, if he think fit, proceed summarily against the defaulter or his executor or administrator in the High Court in the Presidency town, by petition for an account, or to compel obedience to this Act or to such rules and orders as aforesaid, or otherwise as he may think fit, in respect of all or any of the estates then or formerly under the administration of such defaulter ;

and the said Advocate General may exhibit interrogatories to the said Administrator General, executor or administrator (hereinafter called the defendant), who shall be bound to answer the same as fully as if a commission had been issued under the provisions of the Code of Civil Procedure for his examination upon the said interrogatories.

The Court shall have power upon any such petition to compel the attendance in Court of the defendant and any witnesses who may be thought necessary, and to examine them orally or otherwise as the said Court thinks fit, and to make and enforce such order or orders as the Court thinks just.

51. The costs, including those of the Advocate General and of the reference to him, if the same be directed by the Court to be paid, shall be defrayed either by the defendant or out of the estates rateably as the said Court directs ; and whenever any costs are recovered from the defendant, the same shall be repaid to the estates by which they have been in the first instance contributed, and the Court may, if it think fit, order the defendant to receive his costs out of the said estates.

## PART V.

### OF THE COMMISSION OF THE ADMINISTRATOR GENERAL.

52. The Administrator General of each of the said Presidencies, under any letters of administration granted to him in his official character, or under any probate granted to him of a Will wherein he is named as executor by virtue of his office ; or under any probates or letters of administration vested in him by section eight or section thirty-one, shall be entitled to receive a commission at the following rates respectively, namely :—

The Administrator General of Bengal at the rate of three *per centum*, and the Administrators General of Madras and Bombay respectively at the rate of five *per centum*, upon the amount or value of the assets which they respectively collect and distribute in due course of administration.

53. The last preceding section shall not apply to cases in which the property of an officer or soldier dying on service comes to the hands of the Administrator General of any of the said Presidencies, under the ninth or the twelfth section of the Statute called "The Regimental Debts' Act, 1863 ;"

and such Administrator General shall not take a percentage on any such property exceeding three *per centum* on the gross amount coming to his hands after the passing of the Administrator General's Act, 1865, if preferential charges as defined by the fourth section of the said Statute have been previously paid, or on the gross amount remaining in his hands after payment by him of such charges, as the case may be.

Commission to be received by Administrators General.

Section 52 not to apply to property of officers and soldiers dying on service, coming to hands of Administrator General.

Administrator General entitled to a commission of only three *per cent.* on gross amount of such property.

54. The Administrator General shall be entitled to reimburse himself for any payments made by him in respect of any estate in his charge, which a private administrator of such estate might have lawfully made; but save as aforesaid, the commission to which the Administrator General of each of the said three Presidencies shall be entitled is intended to cover, not merely the expense and trouble of collecting the assets, but also his trouble and responsibility in distributing them in due course of administration.

It is therefore enacted that one-half of such commission shall be payable to and retained by such Administrator General upon the collection of the assets, and the other half thereof shall be payable to the Administrator General who distributes any assets in the due course of administration, and may be retained by him upon such distribution.

The amount of the commission lawfully retained by an Administrator General upon the distribution of assets, shall be deemed a distribution in the due course of administration within the meaning of this Act.

*Explanation:* The carrying of assets to separate accounts in the books of the Administrator General notified as heretofore provided, and the transfer of assets to the Official Trustee, shall each be deemed to be a distribution within the meaning of this section.

55. The Governor-General in Council may from time to time order the rate of commission hereinbefore authorized to be received by the Administrator General of Bengal to be raised to any rate not exceeding five *per centum* upon the amount or value of the assets which he collects and distributes in due course of administration and again to be reduced.

The Governments of the Presidencies of Fort St. George and Bombay respectively may, with the sanction of the Governor-General in Council, from time to time, order the aforesaid rate of commission hereby authorized to be received by the Administrators General of Madras and Bombay respectively to be reduced and again to be raised:

Provided that the commission so to be received shall not at any time exceed five *per centum* of the assets collected, and that no person now holding the office of Administrator General of Bengal, Madras or Bombay shall, by any such order, be deprived of the right to receive and retain, for his own use, a commission at the rate of three *per centum* in respect of all assets collected and actually administered by him.

56. No person other than the Administrator General acting officially shall receive or retain any commission or agency charges for anything done as executor or administrator under any probate or letters of administration, or letters *ad colligenda bona*, which have been granted by the Supreme Court or High Court at Fort William in Bengal since the passing of Act No. VII of 1849 (*for the appointment of an Administrator General in Bengal*), or by either of the Supreme or High Courts at Madras and Bombay since the passing of Act No. II of 1850 (*to amend and extend to Madras and Bombay Act No. VII of 1849*), or which have been or shall be granted by any Court of competent jurisdiction within the meaning of sections one hundred and eighty-seven and one hundred and ninety of the Indian Succession Act, 1865;

but this enactment shall not prevent any executor or other person from having the benefit of any legacy bequeathed to him in his character of executor, or by way of commission or otherwise.

## PART VI.

### MISCELLANEOUS.

Power to make rules.

57. The Government may from time to time make rules consistent with the provisions of this Act,

For custody of assets.

(a) for the safe custody of the assets and securities which come to the hands or possession of the Administrator General,

(b) for the remittance to the India Office of all sums of money payable or belonging to persons resident in Europe, or, in other cases where such remittances are required,

For remittance of money.  
For guidance of Administrator General.

(c) generally for the guidance of the Administrator General in the discharge of his duties ;

and may by such rules amongst other things direct what books, accounts and statements, in addition to those mentioned in this Act, shall be kept by the Administrator General, and in what form the same shall be kept, and what entries the same shall contain, and where the same shall be kept, and where and how the assets and securities belonging to the estates to be administered by such Administrator General shall be kept and invested or deposited pending the administration thereof, and how and at what rate or rates of exchange any remittances thereof shall be made.

Unless any such rules are made and published, the rules now in force in each of the said Presidencies, so far as the same are not inconsistent with this Act, shall be of the same force and effect as if the same had been made and published hereunder.

Proviso as to rules now in force.

58. Such rules shall be published in the *Gazette of India*, the *Fort St. George Gazette*, or the *Bombay Government Gazette*, as the case may be, and the several Administrators General shall obey and fulfil the same, and the same shall be a full authority and indemnity for all persons acting in pursuance thereof.

59. The Governor General in Council may from time to time, either by general rule, or by special order in a particular case, decide any question as to the time at which any commission accruing to the Administrator General in his official capacity shall be deemed to have been payable ; and such decision shall bind every Administrator General and the estates held by him in his official capacity.

Orders of Court to be equivalent to decrees.

60. Any order made under this Act by any Court shall have the same effect and be executed in the same manner as a decree.

61. Whoever, having been sworn or having taken an affirmation under this Act, makes upon any examination authorized by this Act, a statement which is false, and which he either knows or believes to be false or does not believe to be true, shall be deemed to have intentionally given false evidence in a stage of a judicial proceeding.

False evidence.

62. All assets in the official charge of the Administrator General of any of the said Presidencies, and appearing from the official books and accounts of the Ecclesiastical Registrar and of the Administrator General of any of those Presidencies, or from the official books and accounts of any of those officers, to have been in official custody for a period of fifteen years or upwards without any claim thereto having been made and allowed, shall be transferred and paid to the Comptroller General of Accounts or to the Accountant General to the Government of Fort St. George or Bombay, as the case may be, and be carried to the account and credit of the Government of India for the general purposes of government ;

and the receipt of the said Comptroller General or Accountant General, as the case may be, shall be a full indemnity and discharge to the said Administrator General for any such transfer or payment :

Provided that this Act shall not authorize the transfer or payment of any such proceeds as aforesaid, pending any suit heretofore or hereafter instituted in respect thereof.

Proviso.

63. If any claim be hereafter made to any part of the securities, moneys or proceeds carried to the account and credit of the Government of India under the provisions of this Act, and if such claim be established to the satisfaction of the Comptroller General or the Accountant General to the Government of Fort St. George or Bombay, as the case may be, the Government of India shall pay to the claimant the amount of the principal so carried to its account and credit or so much thereof as appears to be due to the claimant,

Mode of proceeding by claimant to recover principal money so transferred.

If the claim be not established to the satisfaction of the said Comptroller General or Accountant General, as the case may be, the claimant may apply by petition to the High Court at the Presidency town against the Secretary of State for India, and after taking evidence either orally or on affidavit in a summary way as the Court thinks fit, the Court shall make such order on the petition for the payment of such portion of the said principal sum as justice requires, and such order shall be binding on all parties to the suit,

and the Court may direct by whom the whole or any part of the costs of each party shall be paid.

64. Whenever any person, other than a Hindú, Muhammadan or Buddhist or a

District Judge in certain cases to take charge of property of deceased persons, and to report to Administrator General.

person exempted under the Indian Succession Act, 1865, section three hundred and thirty-two, from the operation of that Act, dies leaving assets within the limits of the jurisdiction of a District Judge, the District Judge shall report the circumstance without delay to the Administrator General of the Presidency,

stating the following particulars so far as they may be known to him :—

- (a) the amount and nature of the assets,
- (b) whether or not the deceased left a Will, and, if so, in whose custody it is, and, on the lapse of one month from the date of the death,
- (c) whether or not any one has applied for probate of the Will of the deceased or letters of administration to his effects.

The District Judge shall retain the property under his charge, or appoint an officer under the provisions of the Indian Succession Act, 1865, section two hundred and thirty-nine, to take and keep possession of the same until the Administrator General has obtained letters of administration, or until some other person has obtained such letters or a certificate from the Administrator General under the provisions of this Act, when the property shall be delivered over to the person obtaining such letters of administration or certificate, or, in the event of a Will being discovered, to the person who may obtain probate of the Will.

65. Nothing in this Act is intended to require the Administrator General to take proceedings to obtain letters of administration to the estate or effects of any officer or soldier or other person subject to any Articles of War, unless when the Administrator General is duly authorized or required so to do by the Military Secretary to Government, or by a Committee of Adjustment or other officers or persons acting under any law for the time being in force relating to the payment of regimental debts ;

nor is anything in this Act contained intended to interfere with or alter the provisions of any Act of Parliament for regulating the payment of regimental debts, and the distribution of the effects of officers and soldiers dying in the service of Her Majesty, in India, or of any Articles of War.

66. Nothing contained in the Indian Succession Act, 1865, or the Indian Companies' Act, 1866, shall be taken to supersede or affect the rights, duties and privileges of the Administrators General and officiating Administrators General of Bengal, Madras and Bombay respectively.

Indian Succession Act and Indian Companies' Act not to affect Administrator General.

And nothing contained in the Indian Succession Act, 1865, or in this Act, or in the said Act No. XXIV of 1867, shall be deemed to affect, or to have affected, any provisions for the time being in force relating to the moveable property under two hundred rupees in value of persons dying intestate within any of the Presidency towns, which shall be or has been taken charge of by the Police for the purpose of safe custody.

\* Saving of provisions of Presidency Police Acts as to petty estates.



ACT III OF 1874.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor General on the 24th February 1874).

*An Act to explain and amend the law relating to certain Married Women, and for other purposes.*

WHEREAS it is expedient to make such provision as hereinafter appears for the enjoyment of wages and earnings by women married before the first day of January 1866, and for insurances on lives by persons married before or after that day :

And whereas by the Indian Succession Act, 1865, section four, it is enacted that no person shall by marriage acquire any interest in the property of the person whom he or she marries, nor become incapable of doing any act in respect of his or her own property, which he or she could have done, if unmarried ;

And whereas by force of the said Act all women to whose marriages it applies are absolute owners of all property vested in, or acquired by, them, and their husbands do not by their marriage acquire any interest in such property, but the said Act does not protect such husbands from liabilities on account of the debts of their wives contracted before marriage, and does not expressly provide for the enforcement of claims by or against such wives ;

It is hereby enacted as follows :—

*I.—Preliminary.*

1. This Act may be called "The Married Women's Property Act, 1874 :"

2. It extends to the whole of British India, and, so far as regards subjects of Her Majesty, to the dominions of Princes and States in India in alliance with Her Majesty.

But nothing herein contained applies to any married woman who at the time of her marriage professed the Hindú, Muhammadan, Buddhist, Sikh or Jaina religion, or whose husband, at the time of such marriage, professed any of those religions.

And the Governor General in Council may from time to time, by order, either retrospectively from the passing of this Act or prospectively, exempt from the operation of all or any of the provisions of this Act the members of any race, sect or tribe, or part of a race, sect or tribe, to whom he may consider it impossible or inexpedient to apply such provisions.

The Governor General in Council may also revoke any such order, but not so that the revocation shall have any retrospective effect.

All orders and revocations under this section shall be published in the *Gazette of India*.

The fourth section of the said Indian Succession Act shall not apply, and shall be deemed never to have applied, to any marriage one or both of the parties to which professed at the time of the marriage, the Hindú, Muhammadan, Buddhist, Sikh or Jaina religion.

3. This Act shall come into force on the passing thereof.

*II.—Married Women's wages and earnings.*

Married women's earnings to be their separate property.

4. The wages and earnings of any married woman acquired or gained by her after the passing of this Act, in any employment, occupation or trade, carried on by her and not by her husband, and also any money or other property so acquired by her through the exercise of any literary, artistic or scientific skill,



and all savings from and investments of such wages, earnings and property, shall be deemed to be her separate property, and her receipts alone shall be good discharges for such wages, earnings and property.

### III.—*Insurances by Wives and Husbands.*

5. Any married woman may effect a policy of insurance on her own behalf and independently of her husband; and the same and all benefit thereof, if expressed on the face of it to be so effected, shall enure as her separate property, and the contract evidenced by such policy shall be as valid as if made with an unmarried woman.

Married woman may effect policy of insurance.

6. A policy of insurance effected by any married man on his own life, and expressed on the face of it to be for the benefit of his wife, or of his wife and children, or any of them, shall enure and be deemed to be a trust for the benefit of his wife, or of his wife and children, or any of them, according to the interest so expressed, and shall not, so long as any object of the trust remains, be subject to the control of the husband, or to his creditors, or form part of his estate.

Insurance by husband for benefit of wife.

When the sum secured by the policy becomes payable, it shall, unless special trustees are duly appointed to receive and hold the same, be paid to the Official Trustee of the Presidency in which the office at which the insurance was effected is situate, and shall be received and held by him upon the trusts expressed in the policy, or such of them as are then existing.

And in reference to such sum he shall stand in the same position in all respects as if he had been duly appointed trustee thereof by a High Court, under Act No. XVII of 1864 (to constitute an Office of Official Trustees), section ten.

Nothing herein contained shall operate to destroy or impede the right of any creditor to be paid out of the proceeds of any policy of assurance which may have been effected with intent to defraud creditors.

### IV.—*Legal proceedings by and against Married Women.*

7. A married woman may maintain a suit in her own name for the recovery of property of any description which, by force of the said Indian Succession Act, 1865, or of this Act, is her separate property; and she shall have, in her own name, the same remedies, both civil and criminal, against all persons, for the protection and security of such property, as if she was unmarried, and she shall be liable to such suits, processes and orders in respect of such property as she would be liable to if she were unmarried.

Married women may take legal proceedings.

8. If a married woman (whether married before or after the first day of January 1866) possesses separate property, and if any person enters into a contract with her with reference to such property, or on the faith that her obligation arising out of such contract will be satisfied out of her separate property, such person shall be entitled to sue her, and, to the extent of her separate property, to recover against her whatever he might have recovered in such suit had she been unmarried at the date of the contract and continued unmarried at the execution of the decree:

Wife's liability for post-nuptial debts.

Provided that nothing herein contained shall affect the liability of a husband for debts contracted by his wife's agency, express or implied, or render a married woman liable to arrest or to imprisonment in execution of a decree.

### V.—*Husband's liability for Wife's debts.*

9. A husband married after the thirty-first day of December 1865, shall not by reason only of such marriage be liable to the debts of his wife contracted before marriage, but the wife shall be liable to be sued for, and shall, to the extent of her separate property, be liable to satisfy such debts as if she had continued unmarried:

Husband not liable for wife's ante-nuptial debts.

Provided that nothing contained in this section shall affect any suit instituted before the passing of this Act, nor invalidate any contract in which a husband may, before the passing of this Act, have entered in consideration of his wife's ante-nuptial debts.

proviso.

ACT IV OF 1874.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor General on the 24th February 1874).

*An Act to control recruiting in British India for the service of Foreign States.*

WHEREAS it is expedient that the Governor General in Council should exercise full control over recruiting in British India for the service of Foreign States; It is hereby enacted as follows:—

Preamble.

Short title.

Local extent.

Commencement.

Interpretation-clause.

1. This Act may be called "The Foreign Recruiting Act, 1874."

It extends to the whole of British India;

And it shall come into force on the passing thereof.

2. In this Act—

"Foreign State" includes any person or persons exercising or assuming to exercise the powers of Government in or over any country, colony, province, or people beyond the limits of British India.

3. If any person is, within the limits of British India, obtaining or attempting to obtain recruits for the service of any Foreign State in any capacity, the Governor General in Council may, by order in writing signed by a Secretary to the Government of India, either prohibit such person from so doing, or permit him to do so subject to any conditions which the Governor General in Council thinks fit to impose.

4. The Governor General in Council may from time to time, by general order notified in the *Gazette of India*, either prohibit recruiting for the service of any Foreign State, or impose upon such recruiting any conditions which he thinks fit.

5. The Governor General in Council may rescind or vary any order made under this Act in such manner as he thinks fit.

6. Whoever, in violation of the prohibition of the Governor General in Council, or of any condition subject to which permission to recruit may have been accorded,

(a) induces or attempts to induce any person to accept or agree to accept or to proceed to any place with a view to obtaining any commission or employment in the service of any Foreign State, or

(b) knowingly aids in the engagement of any person so induced, by forwarding or conveying him or by advancing money or in any other way whatever, shall be liable to imprisonment for a term which may extend to seven years, or to fine to such amount as the Court thinks fit, or to both.

7. Any offence against this Act may be enquired into and tried, as well in any district in which the person accused may be found, as in any district in which it might be enquired into and tried under the provisions of the Code of Criminal Procedure.

Place of trial.

ACT V OF 1874.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor General on the 10th March 1874).

*An Act to invest the Assistant Commissioner in charge of the Kullu Sub-division of the Kangra District with certain appellate powers.*

WHEREAS the Assistant Commissioner in charge of the Kullu Sub-division of the Kangra District was invested with certain appellate powers in civil cases by Act No. IV of 1870; and whereas the period

Preamble.

for which the said Act was to continue in force, has now expired, and it is expedient to repeal the said Act and to re-enact it without prescribing any period for its continuance ; It is hereby enacted as follows :—

1. Act No. IV of 1870 (*for investing the Assistant Commissioner in charge of the Kullu Sub-division of the Kangra District with certain appellate powers*) is repealed.

2. Notwithstanding anything contained in Act No. XIX of 1865 (*to define the jurisdiction of the Courts of Judicature of the Panjáb and its Dependencies*) the Assistant Commissioner or other officer for the time being in charge of the parganas of Kullu, Seoráj, Lahoul and Spítí, commonly called the Kullu Sub-division of the Kangra District, may hear appeals in civil cases from the decisions and orders of the Tahsildár of Sultánpúr, the Tahsildár of Plach, the Négi of Lahoul and the Nono of Spítí.

3. An appeal shall lie from the decisions and orders of such Assistant Commissioner or other officer as aforesaid, to the Commissioner of the Division, in like manner as though such decisions or orders had been given by the Deputy Commissioner of the District; and the provisions of Act No. IX of 1873 (*to prolong the law relating to Appeals and Reviews of Judgment in the Panjáb*) with reference to the Deputy Commissioner, shall be held to apply to such Assistant Commissioner or other officer as aforesaid.

4. This Act shall come into operation on the first day of April 1874, and shall apply to all cases pending or liable to appeal in the Courts of the Tahsildár of Sultánpúr, the Tahsildár of Plach, the Négi of Lahoul, and the Nono of Spítí on that date.

## THE PRIVY COUNCIL APPEALS ACT, 1874.

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ACT VI OF 1874.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor General on the 24th March 1874.)

*An Act to consolidate and amend the law relating to appeals to the Privy Council from decrees of the Civil Courts.*

WHEREAS it is expedient to consolidate and amend the law regulating the admission of appeals to Her Majesty in Council from certain judgments, decrees and orders of the Civil Courts; It is hereby enacted as follows:—

Preamble.

I.—PRELIMINARY.

- |   |  |
|---|--|
| Short title.  | 1. This Act may be called "The Privy Council Appeals Act, 1874:"   |
| It extends to the whole of British India; but it does not apply to any matter of criminal, or admiralty, or vice-admiralty, jurisdiction: nor to appeals from orders and decrees of Prize-courts; |  |
| Extent.   | And it shall come into force on the passing thereof.   |
| Commencement.   | 2. The enactments specified in the schedule hereto annexed are repealed to the extent mentioned in the third column thereof.             |
| Repeal of enactments.   | 3. In this Act, unless there be something repugnant in the subject or context, the expression "decree" includes also judgment and order. |
| 'Decree' defined.   |  |

II.—ADMISSION OF APPEALS.

4. Subject to such rules as may, from time to time, be made by Her Majesty in Council regarding appeals from the Courts of British India, and to the provisions hereinafter contained—  
an appeal shall lie to Her Majesty in Council,

(a) from any final decree passed on appeal by a High Court or other Court of final appellate jurisdiction,

(b) from any final decree passed by a High Court in the exercise of original civil jurisdiction, and

(c) from any decree, when the case, as hereinafter provided, is certified to be a fit one for appeal to Her Majesty in Council.

Value of subject-matter. 5. In each of the cases mentioned in clauses (a) and (b) of section four,

the amount or value of the subject-matter of the suit in the Court of first instance must be ten thousand rupees or upwards, and the amount or value of the matter in dispute on appeal to Her Majesty in Council must be the same sum or upwards,

or the decree must involve, directly or indirectly, some claim or question to, or respecting, property of like amount or value,

and where the decree appealed from affirms the decision of the Court immediately below the Court passing such decree, the appeal must involve some substantial question of law.

Bar of certain appeals.

6. Notwithstanding anything contained in section four,—  
no appeal shall lie to Her Majesty in Council from the judgment of one Judge of a High Court established under the twenty-fourth and twenty-fifth of Victoria, chapter one hundred and four, or of one Judge of a Division Court, or of two or more Judges of such High Court, or of a Division Court constituted by two or more Judges of such High Court, wherever such Judges are equally divided in opinion, and do not amount in number to a majority of the whole of the Judges of the High Court at the time being ;  
and no appeal shall lie to Her Majesty in Council from any decree which, under Act No. XXIII of 1861, section twenty-seven, is final.

Application to Court whose decree is complained of.

7. Whoever desires to appeal under this Act to Her Majesty in Council must apply by petition to the Court whose decree is complained of.

8. Such application must ordinarily be made within six months from the date of such decree.

Time within which application must be made.

But if that period expires when the Court is closed, the application may be made on the day that the Court re-opens.

9. Every petition under section seven must state the grounds of appeal, and pray for a certificate, either that as regards amount or value and nature, the case fulfils the requirements of section five, or that it is otherwise a fit one for appeal to Her Majesty in Council.

Certificate as to value or fitness.

Upon receipt of such petition, the Court may direct notice to be served on the opposite party to show cause why the said certificate should not be granted.

Refusal of certificate.

10. If such certificate be refused, the petition shall be dismissed :

Provided that, if the decree complained of be a final decree passed by a Court other than a High Court, the order refusing the certificate shall be appealable within thirty days from the date of the order, to the High Court to which the former Court is subordinate.

Security and deposit required on grant of certificate.

11. If the certificate be granted, the applicant shall, within six months from the date of the decree complained of, or within six weeks from the grant of the certificate, whichever is the later date,

(a) give security for the costs of the respondent, and

(b) deposit the amount required to defray the expense of translating, transcribing, indexing, and transmitting to Her Majesty in Council a correct copy of the whole record of the suit, except

(1) formal documents directed to be excluded by any order of Her Majesty in Council in force for the time being ;

(2) papers which the parties agree to exclude ;

(3) accounts, or portions of accounts, which the officer empowered by the Court for that purpose considers unnecessary, and which the parties have not specifically asked to be included ; and

(4) such other documents as the High Court may direct to be excluded ;

and when the applicant prefers to print in India the copy of the record, except as aforesaid, he shall also, within the time mentioned in the first clause of this section, deposit the amount required to defray the expense of printing such copy.

Admission of appeal and procedure thereon.

12. When such security has been completed and deposit made to the satisfaction of the Court, the Court may

- (a) declare the appeal admitted, and
- (b) give notice thereof to the respondent, and shall then
- (c) transmit to Her Majesty in Council, under the seal of the Court, a correct copy of the said record, except as aforesaid, and
- (d) give to either party one or more authenticated copies of any of the papers in the suit on his applying therefor and paying the reasonable expenses incurred in preparing them.

Revocation of acceptance of security.

13. At any time before the admission of the appeal, the Court may, upon cause shown, revoke the acceptance of any such security, and make further directions thereon.

Power to order further security or payment.

14. If at any time after the admission of the appeal, but before the transmission of the copy of the record, except as aforesaid, to Her Majesty in Council, such security appears inadequate,

or further payment is required for the purpose of translating, transcribing, printing, indexing, or transmitting the copy of the record, except as aforesaid,

the Court may order the appellant to furnish, within a time to be fixed by the Court, other and sufficient security, or to make, within like time, the required payment.

\* Failure to comply with order.

15. If the appellant fail to comply with such order, the proceedings shall be stayed,

and the appeal shall not proceed without an order in this behalf of Her Majesty in Council,

and in the meantime execution of the decree appealed against shall not be stayed.

Refund of balance of deposit.

16. When the copy of the record, except as aforesaid, has been transmitted to Her Majesty in Council, the appellant may obtain a refund of the balance, if any, of the amount which he has deposited under section eleven.

### III.—PROCEEDINGS PENDING APPEALS.

Powers of Court pending appeal.

17. Notwithstanding the admission of any appeal under this Act, the decree appealed against shall be unconditionally enforced, unless the Court admitting the appeal otherwise directs.

But the Court may, if it think fit, on any special cause shown by any party interested in the suit, or otherwise appearing to the Court—

- (a) impound any moveable property in dispute, or any part thereof, or
- (b) allow the decree appealed against to be enforced, taking such security from the respondent as the Court thinks fit for the due performance of any order which Her Majesty in Council may make on the appeal, or
- (c) stay the execution of the decree appealed against, taking such security from the appellant as the Court thinks fit for the due performance of the decree appealed against, or of any order which Her Majesty in Council may make on the appeal, or
- (d) place any party seeking the assistance of the Court under such conditions, or give such other direction respecting the subject-matter of the appeal, as it thinks fit.

Increase of security found inadequate.

18. If at any time during the pendency of the appeal the security so furnished by either party appears inadequate, the Court may, on the application of the other party, require further security.

In default of such further security being furnished as required by the Court, if the original security was furnished by the appellant, the Court may, on the application of the respondent, issue execution of the decree appealed against as if the appellant had furnished no such security,

And if the original security was furnished by the respondent, the Court shall, so far as may be practicable, stay all further execution of the decree, and restore the parties

to the position in which they respectively were when the security which appears inadequate was furnished, or give such direction respecting the subject-matter of the appeal as it thinks fit.

#### IV.—EXECUTION OF ORDERS OF HER MAJESTY IN COUNCIL.

19. Whoever desires to enforce or to obtain execution of any order of Her Majesty in Council shall apply by petition, accompanied by a certified copy of the decree or order made in appeal and sought to be enforced or executed, to the Court from which the appeal to Her Majesty was preferred.

Such Court shall transmit the order of Her Majesty to the Court which made the first decree appealed from, or to such other Court as Her Majesty by her said order may direct, and shall (upon the application of either party) give such directions as may be required for the enforcement or execution of the same; and the Court to which the said order is so transmitted shall enforce or execute it accordingly, in the manner and according to the rules applicable to the execution of its original decrees.

20. The orders made by the Court which enforces or executes the order of Her Majesty in Council relating to such enforcement or execution, shall be appealable in the same manner and subject to the same rules as the orders of such Court relating to the enforcement or execution of its own decrees.

21. To the first column of No. 169 of the second schedule annexed to the Indian Limitation Act, 1871, the following words shall be added (that is to say), "or any order of Her Majesty in Council."

#### V.—MISCELLANEOUS.

22. The High Court may, from time to time, make general rules consistent with this Act to regulate—

- (a) the service of notices under section nine,
- (b) the grant or refusal of certificates, under sections ten and eleven, by Courts of final appellate jurisdiction subordinate to the High Court,
- (c) the amount and nature of the security required under sections eleven, fourteen and eighteen,
- (d) the testing of such security,
- (e) the estimate of the cost of transcribing the record,
- (f) the preparation, examination and certifying of such transcript,
- (g) the revision and authentication of translations,
- (h) the preparation of indices to transcripts of records, and of lists of the papers not included therein,

and all other matters connected with the enforcement of this Act.

All such rules shall be published in the local official Gazette, and shall thereupon have the force of law in the High Court and the Courts of final appellate jurisdiction subordinate thereto.

All rules heretofore made and published by any High Court relating to appeals to Her Majesty in Council and in force immediately before the passing of this Act, shall, so far as they are consistent with this Act, be deemed to have been made and published hereunder.

23. In sections four and twenty-two, the expression 'High Court' shall be deemed to include also the Recorder of Rangoon, but not so as to empower him to make rules binding on Courts other than his own Court.

24. The rules and restrictions referred to in Bengal Regulation III of 1828, section four, clause five, shall be deemed to be the rules and restrictions applicable to appeals under this Act from the decisions of the High Court of Judicature at Fort William in Bengal.

25. Nothing herein contained shall be understood—

- (a) to bar the full and unqualified exercise of Her Majesty's pleasure in receiving or rejecting appeals to Her Majesty in Council, or otherwise howsoever, or

(b) to interfere with any rules made by the Judicial Committee of the Privy Council and for the time being in force for the presentation of appeals to Her Majesty in Council, or their conduct before the said Judicial Committee.

SCHEDULE.

(See section 2.)

ENACTMENTS REPEALED.

Number and year of enactment.	Title or abbreviated Title.	Extent of repeal.
<b>A.—REGULATIONS.</b>		
Bengal Regulation XVI of 1797.	A Regulation respecting Appeals from the Court of Sudder Dewanny Adawlut to His Most Excellent Majesty and His Most Honourable Privy Council.	The whole.
Bengal Regulation V of 1803.	A Regulation for empowering the Sudder Dewanny Adawlut to try Appeals from the Decisions of the Provincial Court of Appeal established in the Provinces ceded by the Nawab Vizier, &c.	So much as has not been repealed.
Madras Regulation VIII of 1818.	A Regulation prescribing the Rules under which Appeals may be preferred to the King's Most Excellent Majesty in his Privy Council, from the Decisions of the Court of Sudder Adawlut at Fort Saint George.	Ditto.
Bombay Regulation IV of 1827.	A Regulation prescribing the Forms of Proceeding of the Courts of Law in Civil Suits and Appeals, and Rules for the Trial of the same.	Section one hundred.
<b>B.—ACTS.</b>		
Act II of 1844	An Act respecting the Expenses of preparing Copies of Proceedings in Appeals.	The whole.
Act XXV of 1852	An Act for the execution of decrees made in appeal by Her Majesty in Council, &c.	So much as has not been repealed.
Act II of 1863	An Act to regulate the admission of Appeals to Her Majesty in Council from certain Judgments and Orders in Provinces not subject to the General Regulations.	The whole.
<b>C.—STATUTES.</b>		
13 George III, cap. 63	An Act for establishing certain Regulations for the better Management of the Affairs of the East India Company, as well in India as in Europe.	Section eighteen.
37 George III, cap. 142	An Act for the better Administration of Justice at Calcutta, Madras and Bombay, &c.	Section sixteen.



## THE BRITISH BURMA MUNICIPAL ACT, 1874.

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## ACT VII OF 1874.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 24th March 1874.)

*An Act to provide for the appointment of Municipal Committees in Towns in British Burma, and for other purposes.*

**PREAMBLE.**  
WHEREAS it is expedient to provide for the appointment of Municipal Committees in Towns in British Burma, and for the police, conservancy, and improvement thereof, and for the levying of rates and taxes therein ; It is hereby enacted as follows :—

## PART I.

### PRELIMINARY.

- |                        |   |
|------------------------|---|
| Short title.           | 1. This Act may be called "The British Burma Municipal Act, 1874 :"   |
| Local extent.          | It extends only to the territories under the administration of the Chief Commissioner of British Burma ;  |
| Commencement.          | And it shall come into force on the passing thereof.  |
| Interpretation-clause. | 2. In this Act—   |
| "Committee."           | "Committee" means a Municipal Committee appointed under the provisions of this Act :  |
| "Municipality."        | "Municipality" means any town or towns to which this Act may be extended ; and  |
| "Chief Commissioner."  | "Chief Commissioner" means the Chief Commissioner of the Province of British Burma.   |
| Power to extend Act.   | 3. The Chief Commissioner may, by notification published in the <i>British Burma Gazette</i> , declare his intention to extend this Act to any town in British Burma. |

Any inhabitant of such town objecting to such extension may, within six weeks from the said publication, send his objection in writing to the Secretary to the Chief Commissioner, and the Chief Commissioner shall take such objection into consideration.

When six weeks from the said publication have elapsed, the Chief Commissioner, if no such objections have been sent as aforesaid, or (where such objections have been so sent) if in his opinion they are insufficient, may, by like notification, effect the proposed extension.

4. For the purposes of this Act, the Commissioner may, from time to time, by notification in the *British Burma Gazette*, define the limits of any town, and may include within such limits any suburb or railway-station in the vicinity :

Power to define limits of places to which Act extends.

Provided that such notification shall not operate to extend the provisions of the Act to any cantonment or part of a cantonment without the previous consent of the Governor-General in Council.

The Chief Commissioner may, from time to time, by notification in the *British Burma Gazette*, declare to be united for the purposes of this Act any two or more neighbouring towns, and may also declare by what name the municipality so formed shall be designated.

## PART II.

### APPOINTMENT OF MUNICIPAL COMMITTEES.

5. In the case of any town to which this Act has been extended, the Chief Commissioner may appoint, or direct to be appointed, by election, any number of the inhabitants thereof, not less than three, to be a Committee for carrying out the purposes of this Act, and may fill up vacancies occurring among them.

Municipal Committees appointed by Chief Commissioner or by election.

Every person so appointed to any such vacancy shall have the same powers, and be subject to the same liabilities, and vacate his office, and be eligible for reappointment, as if he had been originally appointed under the first clause of this section.

Subject to the provisions contained in section six, every person appointed under this section shall continue in office for two years and thereafter until his successor has been appointed, and shall be eligible for reappointment.

In every case in which the Chief Commissioner directs the appointment of a Committee to be by election, he may fix the time and manner of the election and the qualification of the electors, and generally may make such rules as he thinks fit for regulating the election.

6. The Chief Commissioner may, from time to time, remove any member of a Committee who desires to be discharged or refuses or becomes incapable to act, or is convicted of a non-bailable offence punishable under the Indian Penal Code.

The Chief Commissioner may also, if he thinks fit, add to the number of the members of a Committee. Every member so added shall have the same powers, and be subject to the same liabilities, and vacate his office, and be eligible for reappointment, as if he had been originally appointed under section five.

7. In addition to the members appointed as aforesaid, the Chief Commissioner may appoint, by notification in the *British Burma Gazette*, *ex-officio* members for any place in which they exercise their offices, and to which this Act has been extended :

*Ex-officio* members of Committee.

Provided that (except with the approval of the Governor-General in Council) not less than two-fifths of the members of a Committee shall be persons other than salaried officers of Government.

8. The Chief Commissioner may also appoint the president of every Committee, or sanction the election by its members of one of themselves as President or Vice-President.

Appointment of President or Vice-President.

Election of Secretary.

Notification of appointments.

The Committee may also elect any one of their number or any other person to be their Secretary.

All appointments and elections made under this section shall be notified in the *British Burma Gazette*.

### PART III.

#### OFFICE AND MEETINGS OF COMMITTEES.

Committee to have an office. 9. Every Committee shall have an office, where the members shall meet for the transaction of business at least once in every month.

Rules as to meetings.

10. (a.) The President, or, in his absence, the Vice-President, shall preside at every meeting of the Committee :

(b.) In the absence of both the President and Vice-President, the members present may elect a Chairman for the occasion :

(c.) The meetings shall be general or special :

(d.) The President, or, in his absence, the Vice-President, may, whenever he thinks fit, and he shall, upon a requisition made in writing by not less than one-third in number of the members of the Committee, convene a meeting :

(e.) Notice shall be given of every meeting of a Committee, and when the meeting is to be special, at least three days' notice thereof shall be given. Every notice shall state the general nature of the business to be transacted at the meeting proposed to be called :

(f.) The quorum necessary for the transaction of business at a meeting shall be such number not less than three, as the Committee from time to time prescribes.

The quorum necessary for the transaction of business at a special meeting shall be not less than three, besides being at least one-half of the total number of the members of the Committee at the time of the meeting.

(g.) All business may be transacted at a general meeting which this Act does not require to be transacted at a special meeting :

(h.) All questions which may come before the Committee at any meeting shall be decided by a majority of votes :

(i.) Every member of a Committee shall have one vote. In case of equality of votes, the Chairman shall have a second or casting vote :

(j.) Such decisions shall be recorded in a book kept for the purpose, and shall be published in some local, English or Vernacular newspaper, or in such other manner as the Chief Commissioner from time to time directs.

### PART IV.

#### POWERS OF COMMITTEES.

11. Subject to any general rules or special orders which the Governor-General in Council may from time to time make in this behalf, every Committee intending to impose taxes for the purposes of this Act, shall give public notice of such intention, and shall in such notice define the persons or property within the municipality to be taxed for the purposes of this Act, and the nature, amount, and rate of the taxes to be imposed hereunder.

Any person likely to be directly affected by all or any of the proposed taxes, and objecting to the proposed imposition may, within a fortnight from the date of the said notice, send his objection in writing to the President of the Committee, and the Committee shall take such objection into consideration and report their opinion thereon to the Chief Commissioner.

When six weeks from the date of the said notice have expired, if no such objections have been sent as aforesaid, or (where such objections have been so sent) if, in the opinion of the Committee, they are insufficient, the Committee may, with the previous sanction of the Chief Commissioner, to be notified in the *British Burma Gazette*, define the persons or property, and the amount or rate of the taxes aforesaid, and may then, at a special meeting, impose them accordingly.

The Committee may, at a special meeting, with the same sanction, abolish or lessen in amount any tax so imposed.

12. Such taxes may, subject to the rules or orders last aforesaid, be all or any of the following : Provided that only one of the taxes respectively lettered (a), (b), and (c) shall be imposed on the same property :—

(a.)—A tax on houses, buildings, and lands, according to the annual value thereof, not exceeding five per cent. of such value :

(b.)—A tax on lands covered by buildings, at a rate not exceeding one pie per square foot per annum :

(c.)—A tax according to the number of posts in each house, and not exceeding the following rates :—

	Rs.	As.		Rs.	As.
1st class 7 posts	2	8	per quarter	10	0
2nd „ 6 „	1	12	„	7	0
3rd „ 5 „	1	0	„	4	0
4th „ 4 „	0	10	„	2	8
5th „ 3 „	0	6	„	1	8
6th „ 2 „	0	2	„	0	8

*Explanation.*—The front posts only, or such as face the road, shall be counted : Provided that, in the case of bázars or large buildings extending through from street to street, the posts contained in one row, measured lengthwise, shall be counted, and in a house facing a street on more than one side, all the posts having a road or street frontage shall be counted. In the case of houses having more than seven posts calculated according to the above rules, this tax, if imposed, shall not exceed four rupees eight annas per annum, or one rupee two annas per quarter, additional for each post above seven :

(d.)—Taxes on carriages, carts, boats, horses, ponies, and elephants, or any of them :

(e.)—Fees on licenses to the proprietors or drivers of carriages, carts, and boats plying for hire within the limits of the municipality :

(f.)—Fees on licenses to construct and establish markets, wharves, and slaughter-houses, and to hold or to keep open markets, wharves, and slaughter-houses constructed or established after this Act comes into force within such limits :

(g.)—Any other or further tax recommended by at least two-thirds of the Committee for the time being, and approved by the Chief Commissioner and sanctioned by the Governor-General in Council.

13. To provide for the lighting of the public streets, the Committee may, in addition to the taxes mentioned or referred to in section twelve, impose an annual lighting-rate on all houses, buildings, and lands of any municipality not exceeding two per cent. of their annual value.

To provide for the supply of water, the Committee may, in addition to the taxes last aforesaid, impose an annual rate on all houses and buildings within any municipality not exceeding two per cent. of their annual value.

It shall be at the option of the Committee, in lieu of either of the rates mentioned in this section, to levy upon any native houses an annual rate not exceeding one pie for every three square feet of the ground covered by such houses.

Every rate levied under this section shall be payable by the occupiers of the said houses, buildings, and lands, and shall be accounted for separately.

14. No tax or rate under this Act shall be collected until the assessment thereof has been confirmed by the Chief Commissioner or such officer as he appoints in this behalf.

The Chief Commissioner may, from time to time, with the previous sanction of the Governor-General in Council, make rules for the collection of such taxes and rates, and repeal, alter, or add to such rules.

15. No tax or rate on property made under this Act shall be invalid for defect of form, and it shall be enough, in any such tax or rate or any assessment of value for the purpose of making such tax or rate, if the property rated or assessed be so described as to be generally known, and it shall not be necessary to name the owner or occupier thereof.

16. No person shall, within the limits of any municipality to which this Act has been extended, construct or establish a market or wharf or slaughter-house, or keep a lodging-house for the accommodation of persons not being Natives of British Burma, without a license in writing from the Committee.

*Rules and Bye-Laws.*

17. Every Committee may, from time to time, at a special meeting, make rules consistent with this Act for regulating the time and place of their meetings, the conduct of their business, the restricting of the amount or objects of expenditure under section thirty, the division of duties among themselves, the appointment, leave, suspension, and removal of their officers and servants, and for other similar matter.

18. Every Committee may appoint one or more of their members to carry out their resolutions, and to enforce any of the rules and bye-laws made under the provisions of this Act, or they may appoint a special officer for such purpose.

Making bye-laws.

19. Every Committee may at a special meeting make bye-laws—

(a.) for declaring what acts or omissions within the municipality shall be considered to be public nuisances ;

(b.) for securing a proper registration of births, marriages, and deaths ;

(c.) for determining the rates of hire of carriages, carts, and boats plying for hire within the limits of the municipality ;

(d.) for keeping markets, wharves, and slaughter-houses in order ;

(e.) for the issue of licenses to keepers of lodging-houses for the accommodation of persons not being Natives of British Burma ;

(f.) for defining the cases, manner, and times in and at which the officers of the Committee may enter upon private property for the detection and abatement of nuisances ;

(g.) and for carrying out the purposes of this Act.

The Committee may, from time to time, at a special meeting, repeal, alter or add to such bye-laws.

20. No rule under section seventeen and no bye-law and no alteration or repeal of, or addition to, a bye-law shall have effect until it has been confirmed by the Chief Commissioner

21. All bye-laws made under this Act, and alterations and repeals of, and additions to, such bye-laws, shall be published for such length of time and in such manner as the Chief Commissioner from time to time directs, and shall after such publication have the force of law.

Publication of bye-laws.

*Public Nuisances.*

Power to prohibit repetition or continuance of nuisances.

22. The Committee may enjoin, within the limits of the municipality, any person not to repeat or continue a public nuisance.

Every such injunction shall be deemed to have been made by a public servant.

23. Any member or members sitting together of a Committee whom the Chief Commissioner authorizes in this behalf may, so long as such authorization continues, exercise the powers of a Magistrate of a District as described in section five hundred and twenty-one of the Code of Criminal Procedure for the removal of nuisances, and in the exercise of such powers shall follow the procedure prescribed in sections five hundred and twenty-one to five hundred and twenty-eight (both inclusive) of the same Code.

Power to remove nuisances.

*Purchase and Sale of Land.*

24. The Committee may, at a special meeting, and with the previous sanction of the Chief Commissioner, purchase land for the purposes of this Act, and may, at a like meeting and with the like sanction, sell any portion of such land which is not required for the purposes aforesaid, and convey the same in the names of the President and two of the members of the Committee.

Power to buy and sell land.

The receipt of the President and any two members of the Committee for any monies paid to them upon any such sale shall effectually discharge the person paying the same therefrom, or from being concerned to see to the application thereof, or being accountable for the non-application or misapplication thereof ; and the proceeds of such sale shall be applied for the purposes of this Act.

Receipts.

*Controlling Power of the Chief Commissioner.*

*Cancellation, &c., of proceedings of Committee.*

25. The Chief Commissioner may by order cancel, suspend or limit any of the acts, proceedings or rules of any Committee.

*The Chief Commissioner may also abolish any tax or rate which shall have been sanctioned, but not so as to entitle any person to a refund of monies paid in respect of such tax or rate.*

*Abolition of taxes.*

## PART V.

## RIGHTS, DUTIES, AND LIABILITIES OF COMMITTEES.

*Highways.*

26. All property moveable and immoveable, which, when this Act comes into force in any municipality, is held for municipal purposes, shall, become vested in the Committee appointed under this Act for such municipality; Provided that the Local Government may, by notification in the *British Burma Gazette*, at any time before the extension of this Act to such municipality, except from the operation of this provision any portion of such property, and reserve it to be held either by the Local Government or in the manner in which the same is held at the date of such notification.

*Municipal Fund.*

27. All sums received by the Committee of any town to which this Act shall be extended, and all fines levied under this Act, and all receipts from property managed by the Committee, shall constitute a fund, which shall be called the Municipal Fund of such town, and shall, together with all property which may become vested in such Committee, be under their control, and shall be applied by them as trustees for the purposes of this Act.

The Committee shall keep separate accounts of all receipts and payments of and out of funds raised for the purposes of section thirteen, or assigned to the Committee for any other specific purpose.

28. The Chief Commissioner may, from time to time, with the previous sanction of the Governor-General in Council, assign to the Committee of any town upon which any port may be abutting, or within which any port may be, such annual sums to be charged upon and payable out of the Port Fund of such port as to him seem just and reasonable, for or towards reimbursing to the Municipal Fund such portion of their general expenditure as may, in his opinion, be rendered necessary by the visits to such town of seamen from ships lying in such port.

29. The funds of every municipality shall be kept in the Government Treasury of the district, or in the Bank (if any) to which the Government Treasury business shall have been made over.

No disbursement of such funds or any part thereof shall be made except under the signature of the President or Vice-President and one other member of the Committee.

30. Subject to the provisions of this Act and to their rules restricting the amount or the subjects of expenditure, and after providing out of such fund for a police establishment in the manner hereinafter mentioned, every Committee shall, so far as the Municipal Fund permits, keep the public streets, roads, drains, tanks, and water-courses of the municipality for which they are appointed clean and in repair,

and may cause such streets and roads, or any of them, to be watered and lighted, and generally may do all acts and things necessary for the purposes of conservancy, and may construct and provide for the management of hospitals, dispensaries, market-places, and other works of general utility,

and may also make provision for promoting the public health, safety, comfort, and convenience.

The Committee may also make provision, by the establishment of new schools or the aiding of already existing schools or otherwise, for the promotion of education in the municipality for which such Committee are appointed.

31. Every contract made on behalf of the Committee in respect of any sum exceeding twenty rupees, or in respect of any property exceeding twenty rupees in value, shall be in writing, and shall be signed by the President or Vice-President and at least two other members of the Committee, of whom one shall be an *ex-officio* member. Unless so executed, it shall not be binding on the Committee.

*Municipal Police.*

32. Every Committee shall provide in the first place from the funds applicable to the general purposes of the municipality, such sums as the Chief Commissioner may from time to time require for the establishment and maintenance of the police ordinarily employed on town duties within the limits of the municipality.

Police to aid in carrying out orders regarding nuisances.

33. The municipal police shall be enrolled under Act No. V of 1861 (*for the regulation of Police*).

Every police officer in any town to which this Act is extended shall have power to take into custody without a warrant any person who, within his view, commits any of the offences mentioned in section thirty-four of the said Act No. V of 1861, and shall be bound to carry out the orders issued by the Committee for the prohibition and prevention of any public nuisance defined to be such by any bye-law made under this Act.

*Annual Reports.*

34. Every Committee shall annually, or oftener if directed by the Chief Commissioner to do so, submit statements of their receipts on account of, and disbursements from, the Municipal Fund, and also reports of all works executed or proceedings taken by them under the authority of this Act.

Such accounts shall be examined or audited in such manner as the Chief Commissioner from time to time prescribes.

The Committee shall also submit, at such time and in such form as may be directed by the Chief Commissioner, an estimate of their probable receipts for the financial year next following, with proposals for their expenditure.

An abstract of such estimate and proposals shall, on being so submitted, be published in such manner as the Chief Commissioner from time to time directs.

35. The Chief Commissioner may from time to time make rules consistent with this Act, as to the cost and the class of works which the Committee may execute, and the members of the Committee shall be legally bound to obey such rules.

*Land required for Public Purposes.*

36. When any land within the limits of any municipality is required for the construction or improvement of a highway, for the promotion of the healthiness of the neighbourhood, or for any other public purpose, if the Committee cannot agree with the owner for the purchase thereof, the Chief Commissioner, on the recommendation of the Committee, may notify in the *British Burma Gazette* that such land is required under the provisions of the Land-Acquisition Act, 1870, and on payment by the Committee of the compensation awarded under such Act, the land shall vest in them for the purposes of this Act.

*Suits by and against Committee.*

Suits by and against Committee.

37. Every Committee shall sue and be sued in the name of their President.

38. No member of a Committee shall be personally liable for any contract made or expense incurred by or on behalf of the Committee; but the funds from time to time in the hands of the Committee shall be liable for, and chargeable with, all contracts made in the manner above provided for.

Members not personally liable for contracts made.

39. Every member of a Committee shall be liable for any misapplication of money entrusted to the Committee to which he shall have been a party, or which happens through, or is facilitated by, the neglect of his duty; and he shall be liable to be sued for the same in such Court as the Chief Commissioner directs as for money due to Government.

Liability of members for breach of trust.



40. No suit shall be brought against a Committee or any of their officers, or any person acting under their direction, for anything done under this Act, until the expiration of one month next after notice in writing has been delivered or left at the office of the Committee, or at the place of abode of such person, stating the cause of suit and the name and place of abode of the intending plaintiff.

Unless such notice be proved, the Court shall find for the defendant.

Limitation of suits.

Every such suit shall be commenced within three months next after accrual of the right to sue and not afterwards.

If any person to whom any such notice of suit is given shall, before suit is brought, tender sufficient amends to the plaintiff, such plaintiff shall not recover.

Previous tender of amends.

## PART VI.

### PENALTIES AND PROSECUTIONS AND RECOVERY OF TAXES.

41. No member or servant of a Committee shall be interested directly or indirectly in any contract made with the Committee; and if any such person be so interested, he shall thereby become incapable of continuing in office or in employment as such member or servant, and shall be liable to a fine not exceeding five hundred rupees:

Penalty on Committee or any of their servants being interested in contracts made with Committee.

Provided that no person shall, by reason of being a shareholder in or member of any incorporated or registered Company, be deemed interested in any contract entered into between such Company and the Committee.

Nevertheless it shall not be lawful for such shareholder or member to act as a member of the Committee in any matter relating to such contract.

42. Whoever infringes any bye-law made and confirmed as directed in this Act, shall be liable to a fine not exceeding fifty rupees, and, in the case of a continuing infringement, to a fine not exceeding five rupees for every day after notice from the Committee of such infringement.

Penalty for infringement of bye-laws or non-payment of fines.

In default of payment of any fine imposed under this section, the defaulter shall, in the case of a continuing infringement, be liable to simple imprisonment for a term not exceeding one month; and in any other case, to simple imprisonment for a term not exceeding eight days.

43. Prosecutions under this Act for infringement of bye-laws may be instituted before any Magistrate having jurisdiction by the Committee or any person authorized by them in this behalf.

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44. All fees and all sums due on account of property for the time being vested in the Committee, and all arrears of taxes and rates imposed under this Act, may be recovered as if they were arrears of land-revenue.

Recovery of taxes.

## ACT VIII OF 1874.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor General on the 7th April 1874.)

*An Act to provide for the exercise of the powers hitherto exercised by the Lieutenant-Governor and Board of Revenue of Bengal in the territories forming the Chief Commissionership of Assam.*

WHEREAS the territories mentioned in the schedule hereto annexed have been taken under the direct management of the Governor General in Council, and have been formed into a Chief Commissionership, called the Chief Commissionership of Assam, and a Chief Commissioner has been appointed for the same:

Preamble.

And whereas it is expedient to provide for the exercise within the said territories of the powers heretofore exercised therein, under or by virtue of any law or regu-

lation, by the Lieutenant-Governor of Bengal and the Board of Revenue for the Lower Provinces of the Presidency of Fort William in Bengal, respectively; It is hereby enacted as follows :—

1. All powers over the whole or any portion of the said territories which at the time of the formation of the said Chief Commissionership were, under or by virtue of any law or regulation, vested in, or exercisable by, the said Lieutenant-Governor or Board of Revenue, shall be taken to have been, on the formation of the said Chief Commissionership, transferred to and vested in the Governor General in Council.
2. The Governor General in Council may, from time to time, delegate to the said Chief Commissioner all or any of the said powers, and withdraw powers.
3. Nothing herein contained shall be deemed to affect the power of the said Lieutenant-Governor to complete and carry out arrangements pending at the passing of this Act for making compensation to zamindárs or other persons under Act No. XXII of 1869, section seven.

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### THE EUROPEAN VAGRANCY ACT, 1874.

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# ACT IX OF 1874.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor General on the 7th April 1874.)

*An Act to consolidate and amend the Law relating to European Vagrancy.*

WHEREAS it is expedient to consolidate and amend the laws relating to persons of European extraction who wander in a destitute condition throughout India; It is hereby enacted as follows:—

Preamble.

## PART I.

### PRELIMINARY.

Short title.

1. This Act may be called "The European Vagrancy Act, 1874:"

Local extent.

It extends to the whole of British India and to the dominions of Princes and States in India in alliance with Her Majesty;

And it shall come into force at once: Provided that sections four to sixteen (both inclusive), nineteen, twenty, twenty-four and twenty-nine shall

Commencement.

not come into force in Coorg, or in the Andaman and Nicobar Islands, or in any of the dominions of the Princes and States in India in alliance with Her Majesty not situate within the limits of any Presidency, Lieutenant-Governorship or Chief Commissionership in British India, until such day or respective days as the Governor General in Council from time to time, by notification in the *Gazette of India*, appoints in this behalf.

2. Acts No. XXI of 1869 (*to provide against European Vagrancy*) and

No. XXVIII of 1871 (*to amend the European Vagrancy Act, 1869*) are hereby repealed.

Repeal of Acts.

But all appointments and orders made, work-houses provided, certificates given, powers conferred, rules prescribed and exemptions granted under the former Act, shall be deemed to have been respectively made, provided, given, conferred, prescribed and granted under this Act.

Interpretation-clause.

3. In this Act—

"Person of European extraction."

"Person of European extraction" includes—

(a) persons born in Europe, America, the West Indies, Australia, Tasmania, New Zealand, Natal, or the Cape Colony;

(b) the sons and grandsons of such persons,

but does not include persons commonly called Eurasians or East Indians:

"Vagrant" means a person of European extraction found asking for alms, or wandering about without any employment or visible means of subsistence:

"Vagrant."

"Master of a ship."

"Master of a ship" includes any person in charge of a decked vessel:

And in Parts III and V of this Act "Magistrate" means, within the limits of the towns of Calcutta, Madras and Bombay, a Magistrate of Police, and, outside those limits, a person exercising powers under the

"Magistrate."

Code of Criminal Procedure not less than those of a Magistrate of the second class.

## PART II.

## PROCEDURE.

4. Any Police officer may, within the limits of the towns of Calcutta, Madras and Bombay, require any person who is apparently a vagrant to accompany him or any other Police officer to, and to appear before, the nearest Magistrate of Police, and may, without those limits, require any such person to accompany him or any other Police officer to, and to appear before, the nearest Justice of the Peace exercising the powers of a Magistrate of the first class under the Code of Criminal Procedure.

5. The Magistrate of Police or Justice shall in such case, or in any other case where a person apparently a vagrant comes before him, make a summary inquiry into the circumstances and character of the apparent vagrant; and if he is satisfied that such person is a vagrant, he shall record in his office a declaration to that effect.

If he is further of opinion that the vagrant is not likely to obtain employment at once, or if he has reason to believe that a declaration of vagrancy has on any former occasion been recorded in respect of such vagrant, he shall require the vagrant to go to a Government work-house, and shall draw up an order to that effect.

The vagrant shall then be placed in charge of the Police for the purpose of being forwarded to the work-house, and the said order shall be a sufficient authority to the Police for retaining him in their charge while he is on his way to the work-house, and to the Governor of the work-house for receiving and detaining such vagrant.

6. Where the officer making the inquiry mentioned in section five is of opinion that the vagrant is likely to obtain employment in any place subject to the Local Government, or (when the vagrant is in any part of the dominions mentioned in section one) in any place subject to any adjacent Local Government, such officer may in his discretion forward the vagrant to such place in charge of the Police, and draw up an order to that effect.

Such order shall be a sufficient authority to the Police for retaining the vagrant in their charge while he is on his way to such place of employment.

7. Upon his arrival at the place of employment, the vagrant shall be taken before the nearest Magistrate of Police or Justice of the Peace exercising powers as aforesaid, to whom the order for transmission shall be delivered.

Such officer shall thereupon, to the best of his ability, assist the vagrant in seeking employment, and may in the meantime, if he think fit, keep the vagrant in the charge of the Police.

Should the vagrant fail to obtain suitable employment within a reasonable time not exceeding fifteen days from such arrival, such officer shall forward him to a Government work-house in the manner provided by section five.

8. Every person while in charge of the Police, whether before inquiry as to his vagrancy, or while he is on his way, under section five, to the work-house, or, under section six, to a place of employment, shall be entitled to an allowance for his subsistence at the rate of eight annas per diem. The Magistrate of Police or Justice, before whom any vagrant is taken under section seven, may, if he think fit, order the vagrant to receive a similar allowance while he is seeking employment.

The Local Government shall cause such allowance to be paid out of such funds at its disposal and in such manner as it may from time to time direct.

9. Any Magistrate of Police or Justice of the Peace exercising powers as aforesaid may, on being satisfied that any person of European extraction is not likely to become a vagrant, give such person a certificate under his hand stating that for a certain time (mentioning it) not exceeding six months from the date of the certificate, and within certain limits (mentioning them), nothing in sections four, five, six and seven shall apply to the holder of such certificate; and thereupon, so long as the certificate remains in force, nothing in sections four, five, and seven shall apply to such person within such limits as aforesaid.

Every such certificate shall be in the form set forth in the first schedule to this Act annexed, or as near thereto as circumstances will admit.

Form of certificate.

10. The Local Government may, from time to time, by notification in the official Gazette, invest any Justice of the Peace, District Superintendent of Police, or Assistant District Superintendent of Police with the jurisdiction and powers conferred by this Part on a Justice of the Peace exercising powers as aforesaid.

Power to invest certain officials with jurisdiction of Justices under sections 7, 8, and 9.

### PART III.

#### GOVERNMENT WORK-HOUSES.

11. The Local Government, with the previous sanction of the Governor-General in Council, may provide work-houses with their necessary furniture and establishment, at such places as it may think proper, for the temporary reception of vagrants,

or may, by writing under the hand of a Secretary to such Government, certify any building, or part of a building not provided as a work-house under the former part of this section, to be fit for a work-house for the purposes of this Act. Every such certificate shall be published in the local official Gazette, and thereupon such building or part of a building shall, until the Local Government otherwise orders, be deemed a Government work-house under this Act.

The Local Government shall allow the same scale of diet for the support of vagrants received in such work-houses as is for the time being allowed for Europeans confined in the local prisons or penitentiaries.

Scale of diet.

12. Every such work-house shall be under the immediate charge of a Governor, Superintendent of who shall be appointed, and may be suspended or removed, by work-houses. the Local Government.

Every such Governor shall, if the Local Government think fit, be subject to the orders of a Committee of Management appointed from time to time by such Government, or, in the absence of a Committee, to the orders of such officer as the Local Government from time to time appoints in this behalf.

13. Every such Governor may order that any vagrant admitted to the work-house under his charge shall be searched, and that the vagrant's bundles, packages, and other effects shall be inspected and may direct that any money then found with or on the vagrant, shall be applied (subject to the orders of the Local Government) towards the expense of carrying this Act into execution, and may order that all or any of the said effects shall be sold, and that the produce of the sale be applied as aforesaid, but subject to the like orders.

Search of vagrants.

14. Vagrants admitted to work-houses under this Act shall be subject to such rules of management and discipline as may from time to time be prescribed by the Local Government with the previous sanction of the Governor-General in Council.

Discipline.

The Local Government may authorize any Governor of a work-house to punish (under or not under the supervision and direction of a Committee of Management, as the Local Government thinks fit) any vagrant who knowingly disobeys or neglects any such rule with any one of the following punishments (namely)—

(a) solitary confinement within the work-house for any time not exceeding seven days;

(b) solitary confinement within the work-house for any time not exceeding three days upon a diet reduced to such extent as the Local Government may prescribe;

(c) hard labour for any time not exceeding seven days;

(d) reduction of diet to such extent as the Local Government may prescribe for any time not exceeding five days.

Or in lieu of any such punishment any such vagrant may, on conviction before a Magistrate of such disobedience or neglect, be punishable with rigorous imprisonment in jail for a term which may extend to three months.

15. The Governor and the Committee of Management (if any) of every such work-house shall use his and their best endeavours to obtain outside the work-house suitable employment for the vagrants admitted thereto.

When such employment is obtained, any such vagrant refusing or neglecting to avail himself thereof, shall, on conviction before a Magistrate, be punishable with rigorous imprisonment for a term which may extend to one month.

#### PART IV.

##### REMOVAL FROM INDIA.

16. If after the lapse of a reasonable time no suitable employment is obtainable for any such vagrant, the Local Government may either (when he has entered into such agreement as hereinafter mentioned) cause him to be removed from British India in manner hereinafter provided, the cost of such removal being paid by Government; or it may cause sessions twenty-three and thirty to be read to him and may then release him.

17. Any vagrant or other person of European extraction may enter into an agreement in writing with the Secretary of State for India in Council, binding himself—

(a) to proceed to such port in British India as shall be mentioned in the agreement;

(b) there to embark on board such ship and at such time as is directed by an officer appointed in this behalf by the Local Government of the territories in which such port is situate, for the purpose of being removed from India at the expense of the said Secretary of State in Council;

(c) to remain on board such ship until she has arrived at her port of destination; and

(d) not to return to India until five years have elapsed from the date of such embarkation.

Every such agreement may be on unstamped paper and shall be in the form set forth in the second schedule to this Act annexed, or as near thereto as circumstances admit.

18. The Local Government of the territories in which the said port is situate, may enter into such contracts for conveyance or otherwise, and perform such other acts as may be necessary to carry out such agreement on the part of the said Secretary of State in Council.

#### PART V.

##### PENALTIES.

19. Any person refusing or failing to accompany a Police officer to, or to appear before, a Magistrate of Police or Justice of the Peace, for the purpose of preliminary inquiry, when required so to do under section four, may be arrested without warrant and shall be punishable, whether he be or be not an European British subject, on conviction before a Magistrate, with imprisonment for a term which may extend to one month, or with fine, or with both.

And any person who, when required under section four to accompany a Police officer to, or to appear before, a Magistrate of Police or Justice of the Peace, commits an offence punishable under section three hundred and fifty-three of the Indian Penal Code, may, whether he be or be not an European British subject, be tried by a Magistrate for such offence.

20. Any vagrant who escapes from the Police while committed to their charge under the orders specified in sections five and six,

Quitting work-house or who leaves a work-house under this Act, without permission from the Governor, without leave.

or who having with such permission left a work-house for a limited time or a specified purpose, fails to return on the expiration of such time, Failing to return to work-house. or when such purpose has been accomplished or proves to be impracticable.

shall for every such offence be punishable, on conviction before a Magistrate, with rigorous imprisonment for a term which may extend to two years.

21. Any person entering into an agreement under section seventeen, and failing to proceed to port of embarkation. ing to proceed in pursuance thereof to the port therein mentioned,

Refusing to go on board-ship. or refusing to embark when directed so to do under the same section,

Escaping from ship. or escaping from the ship in which he has so embarked before she has reached her port of destination,

shall for every such offence be punishable, whether he be or be not an European British subject, on conviction before a Magistrate, with rigorous imprisonment for a term which may extend to six months.

22. Any person returning to India within five years of the date of his embarkation pursuant to any agreement entered into under section seventeen, unless specially permitted so to do by the Secretary of State for India, shall for every such offence be punishable, whether he be or be not an European British subject, on conviction before a Magistrate, with rigorous imprisonment for a term which may extend to two years.

Begging. 23. Any person of European extraction found asking for alms when he has sufficient means of subsistence,

or asking for alms in a threatening or insolent manner, or continuing to ask for alms of any person after he has been required to desist,

shall be punishable, whether he be or be not an European British subject, on conviction before a Magistrate, with rigorous imprisonment for a term not exceeding one month for the first offence, two months for the second, and three months for any subsequent offence.

24. Every person imprisoned under section nineteen, twenty, twenty-one, twenty-two or twenty-three, shall, at the end of his term of imprisonment, be placed before the nearest Magistrate of Police or Justice of the Peace exercising powers as aforesaid, who shall, if he think fit, forthwith deal with him in the manner prescribed by sections five and six.

The order of transmission shall certify the fact of the previous conviction.

25. Every master of a ship landing or allowing to land in any part of British India any person of European extraction who has been convicted in any other part of Her Majesty's dominions of felony, or of an offence which, if committed in England, would be felony, shall, on conviction before a Magistrate, be liable, for every such person so landed or allowed to land, to pay a fine not exceeding five hundred rupees and not less than one hundred rupees, and, in default of payment, to imprisonment for any term not exceeding two months,

unless the defendant satisfy the Magistrate by evidence (which the defendant is hereby declared competent to give) that he had made due enquiry as to the person so landed, or allowed to land, and that he had no reason to believe that such person had been convicted as aforesaid.

The Governor-General in Council may, from time to time, by notification in the *Gazette of India*, exempt from the operation of the former part of this section the masters of any class of ships, on such terms as to the Governor-General in Council seem fit, and either in respect of all or of any of the persons on board such ships.

The Governor-General in Council may in like manner revoke any exemption made under this section.



26. All fines imposed under this Act may be recovered, if for offences committed outside the local limits of the towns of Calcutta, Madras, and Bombay, in the manner prescribed by the Code of Criminal Procedure, and if for offences committed within those limits, in the manner prescribed by any Act regulating the Police of such towns in force for the time being.

Recovery of fines.  
All fines recovered under this Act shall be paid to the credit of the Government of India, or as the Governor-General in Council from time to time directs.

27. All prosecutions under this Act may be instituted and conducted by such officer as the Local Government from time to time appoints in this behalf.

28. In imposing penalties under this Part and Part III of this Act, no person shall exceed the limits of jurisdiction prescribed for him by the Code of Criminal Procedure in the case of offenders not being European British subjects.

29. No proceeding under this Act shall be deemed invalid by reason only that the Magistrate of Police or Justice, before whom a person, apparently a vagrant, was required to appear, or before whom a person was placed under section twenty-four, was not the nearest.

Validity of proceedings where Magistrate is not the nearest.

## PART VI.

### MISCELLANEOUS.

30. Any European British subject who, upon the summary enquiry mentioned in section five, has been determined to be a vagrant, or who has been convicted under section twenty-two or section twenty-three, shall, so long as he remains in India, be subject, beyond the limits of the said towns, to the provisions of the Code of Criminal Procedure (other than those contained in Chapter XXXVIII of the same Code) applicable to an European not being a British subject.

If from any cause he is committed or held to bail by a Justice of the Peace to take his trial before a High Court, he shall not, be at liberty to object to the jurisdiction of such Justice of the Peace or High Court on the ground of anything contained in the former part of this section.

Save as aforesaid nothing herein contained shall be deemed to confer jurisdiction over European British subjects on Magistrates, who, if this Act had not been passed, would have had no such jurisdiction.

31. Whenever any person of European extraction lands in India, or, being a Non-Commissioned Officer or Soldier in Her Majesty's Army, leaves that Army in India, under an engagement to serve any other person, or any Company, Association or body of persons in any capacity,

and whenever a sailor of European extraction not being a British subject, is discharged from his ship in any British Indian port,

and becomes chargeable to the State as a vagrant within one year after his arrival in India or leaving the Army, or discharge from his ship, as the case may be, then the person, or Company, Association or body, to serve whom he has so landed in India or left the army, or in the case of a sailor, the person who is at the date of the discharge the owner or agent of the ship from which the sailor has been so discharged, shall be liable to pay to the Government the cost of his removal under this Act, and all other charges incurred by the State in consequence of his becoming a vagrant.

Such costs and charges shall be recoverable by suit as if an express agreement to repay them had been entered into with the Secretary of State for India in Council, by the person, Company, Association, body, owner or agent chargeable.

32. When any person of European extraction lands in India, being or having been during his passage to India, or from one Indian port to another, in charge of, or in attendance upon, any animal, and becomes chargeable to the State as a vagrant within one year after his arrival in India, then

Liability of consignee in case of Europeans who arrive in charge of animals and become vagrants.

the consignee of such animal, or the agents in India for the sale of such animal, or, if such consignee or agents cannot be found, the agent to whom the ship in which such animal arrived in India was consigned, shall be liable to pay to the Government the cost of such person's removal under this Act, and all other charges incurred by the State in consequence of his becoming a vagrant.

Any such consignee or agent shall be entitled to charge the consignor or principal for any payment to the Government under this section.

For the purposes of this section 'Consignee' includes any person who undertakes to dispose of such animal for the benefit of the consignor, and  
'Consignee' defined.

'Agent' defined.

'Agent' includes any person who undertakes the agency of such ship, though it may not have been consigned to him.

33. In any proceeding under this Part, a certified copy of the declaration recorded under section five, shall be *prima facie* evidence that the European British subject named therein has been, upon the summary enquiry mentioned in that section, determined to be, and that he was at the date of the declaration, a vagrant.

34. The powers and duties conferred and imposed by sections sixteen and eighteen, on a Local Government, may be exercised and performed by such class of officers as the Local Government from time to time, by notification in the official Gazette, appoints in this behalf.

35. The powers and duties conferred and imposed by this Act on Magistrates, Justices of the Peace exercising the powers of a Magistrate of the first class, and Police officers respectively may, in places beyond the limits of British India, be exercised and performed by such persons respectively as the Governor-General in Council from time to time, by notification in the *Gazette of India*, appoints in this behalf.

36. The Governor-General in Council may, from time to time, make rules, consistent with this Act, for the guidance of officers in matters connected with its enforcement.

All such rules shall be published in the *Gazette of India*, and shall thereupon have the force of law.

### THE FIRST SCHEDULE.

(See section 9.)

WHEREAS E. F. of , a person of European extraction and holder of this certificate, has appeared before me and satisfied me that he is not likely to become a vagrant within the meaning of the European Vagrancy Act, 1874, THESE ARE TO CERTIFY that for the space of months from the date hereof and within the Province [or District] of nothing in sections four, five, six, and seven of the same Act shall be deemed to apply to him, unless he is found asking for alms, in which case this certificate shall be void.

(Signed) G. H.

Dated this day of 18 .  
Magistrate of Police for the Town of or Justice of the Peace for exercising the powers of a Magistrate of the class.

### THE SECOND SCHEDULE.

(See section 17.)

ARTICLES OF AGREEMENT made this day of 18 BETWEEN the Secretary of State for India in Council of the one part and C. D. of, &c. [the vagrant], of the other part: Each of the parties hereto (so far as relates to the acts on his own part to be performed) hereby agrees with the other of them as follows:—

1. The said C. D. shall proceed forthwith to the port of [the port of embarkation].
2. The said C. D. shall there embark on board such ship and at such time as an officer appointed in this behalf by the Local Government shall direct.
3. The said C. D. shall remain on board such ship until she shall have arrived at her port of destination.

4. The said *C. D.* shall not return to India until five years shall have elapsed from the date of such embarkation, unless specially permitted so to return by the said Secretary of State.

5. The said Secretary of State in Council shall defray the cost of the transit of the said *C. D.* to the said port, and of his lodging and subsistence during such transit and during his detention (if any) at the same port, and shall contract with the owner of the said ship, or his agent, for the passage of the said *C. D.* on board the said ship, and for his subsistence during the voyage for which he shall embark as aforesaid.

In witness whereof *A. B.* (by order of the Governor-General of India in Council [or the Governor of                      in Council or the Lieutenant-Governor of                      or the Chief Commissioner of                      ], on behalf of the said Secretary of State in Council) and the said *C. D.* have hereunto set their hands the day and year first above written.

## ACT X OF 1874.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 21st April 1874.)

### *An Act to amend the Law relating to Salt.*

Preamble.                      For the purpose of amending the law relating to Salt in Ganjam, Orissa, and the Central Provinces; It is hereby enacted as follows:—

#### (a).—*Ganjam.*

1. In modification of Act No. XXIV of 1869, section two, the price to be paid Modification of Act to the Local Government for Salt manufactured under the orders XXIV of 1869, section 2. of the Governor of the Presidency of Fort St. George in Council, and sold at any place within the District of Ganjam, shall be such sum not exceeding two rupees four annas for every maund of three thousand two hundred tolas weight of Salt as the Governor-General in Council may from time to time fix for such place.

#### (b).—*Orissa.*

2. In modification of Bengal Act No. VII of 1864, section nine, a duty shall be Modification of Bengal paid on Salt manufactured at any place in the Division of Orissa Act VII of 1864, section 9. by persons licensed under that Act, at such rate not exceeding three rupees four annas, and not less than two rupees four annas, per maund of three thousand two hundred tolas weight as the Governor-General in Council may from time to time fix for such place.

#### (c).—*The Central Provinces.*

Levy of Salt-duty in                      3. The duty leviable under Act No. VII of 1864, section Central Provinces. two, may be levied by way of a mileage rate on—

(a.) Salt imported from the Presidency of Bombay into any part of the territories under the administration of the Chief Commissioner of the Central Provinces, and

(b.) Salt which having been so imported is afterwards moved from one place to another.

And the Governor-General in Council may, from time to time, fix, for the purposes of this section, the rate per maund per mile, and the places at which, and the mode in which, such rate shall be levied.

4. The provisions of sections six and seven of Act No. XIV of 1843 shall apply Application of Act XIV as if the duties therein-mentioned were the duty leviable under of 1843, sections 6 and 7. the said Act No. VII of 1864 as modified by section three of this Act, and as if the orders referred to in the said section six of Act No. XIV of 1843 were orders issued under the said Act No. VII of 1864 or under section three of this Act.

ACT XI OF 1874.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 5th May 1874.)

*An Act to amend the Code of Criminal Procedure.*

Preamble.

FOR the purpose of amending the Code of Criminal Procedure; It is hereby enacted as follows:—

Amendment of section 2.

1. In section two, after the fourth paragraph, the following shall be inserted (namely):—

“The cases in which the Police may arrest without warrant or not, in the case of each offence under the Indian Penal Code or any other law referred to in section eight; whether a warrant or a summons shall ordinarily issue in the first instance, whether the offence is bailable or not, and the Court by which the offence is triable, are indicated respectively by the third, fourth, fifth and seventh columns of the fourth schedule hereto annexed.”

Addition to section 4.

2. To section four the following clause shall be added (namely):—

“In every part of this Code, except where a contrary intention appears from the context, words which refer to acts done extend also to illegal omissions.”

Amendment of sections 18 and 36.

3. To sections eighteen and thirty-six, the following words shall be added (namely):—

“or if he think further enquiry or additional evidence upon any point bearing upon the guilt or innocence of the accused person to be necessary, he may direct such enquiry or evidence to be made or taken.”

Amendment of section 49.

4. In section thirty-nine, after the word “limits,” the following words shall be inserted (namely): “and may, with the previous sanction of the Governor-General in Council, declare any local area to be a District.”

Addition to section 42.

5. To section forty-two, the following clause shall be added (namely):—

“With the previous sanction of the Governor-General in Council, the Local Government may delegate, with such limitations as it may think proper, to any officer under its control, the power conferred by the first clause of this section.”

Amendment of sections 44 and 47.

6. In section forty-four and the first paragraph of section forty-seven, the word “criminal” shall be omitted.

Addition to section 46.

7. To section forty-six, the following illustration shall be added (namely):—

“*Illustration.*—A Magistrate of the third class having jurisdiction finds an accused person guilty, but considers that he ought to receive a more severe punishment than imprisonment for a term of one month, or a fine of fifty rupees. On recording the finding, submitting the proceedings and forwarding the accused to the Magistrate of the District, such Magistrate may pass a sentence on the accused including solitary confinement and whipping.”

Amendment of section 59.

8. In section fifty-nine, after the word “Court,” the words “inferior to a Court of Session” shall be inserted.

Addition to section 52.

9. To the second paragraph of section sixty-three, the following words shall be added (namely):—

“Provided that such direction be not repugnant to any direction previously issued under the twenty-fourth and twenty-fifth of Victoria, cap. 104, section fifteen, or under section sixty-four of this Code.”

Proviso of section 64 repealed.

10. In section sixty-four, the proviso shall be repealed.

Power to transfer criminal cases from one High Court to another.

11. After section sixty-four, the following section shall be inserted (namely) :—

"64A. Whenever it appears to the Governor-General in Council that it will promote the ends of justice or tend to the general convenience of parties or witnesses, he may, by notification in the *Gazette of India*, direct the transfer of any particular criminal case or appeal from one High Court to another High Court, or from any Criminal Court subordinate to one High Court to any other Criminal Court of equal or superior jurisdiction subordinate to another High Court.

"And the Court to which such case or appeal is transferred shall deal with the same as if it had been originally instituted in or presented to such Court."

Amendment of section 7.

12. For the second paragraph of section seventy-five, the following shall be substituted (namely) :—

"When the offence, or one of the offences, complained of is punishable with death or transportation for life, the commitment shall be to the High Court.

"And where any person so committed is charged with several offences, of which one is punishable with death or transportation and the other with a less punishment, and the High Court considers that he should not be tried for the offence punishable with death or transportation, the High Court may nevertheless try him for the other offence."

13. In section one hundred and eighty-six, for the words "charged before any Criminal Court with an offence," the following words shall be substituted (namely) :—

"accused in any Criminal Court of an offence."

Amendment of section 195, Explanation III.

14. In section one hundred and ninety-five, Explanation III, for the word "cannot," the words "shall not ordinarily" shall be substituted.

15. To section two hundred and two, clause first, the following words shall be added (namely) : "unless the Magistrate is satisfied that such Government Pleader or other person is already aware of the commitment and the form of the charge."

Addition to section 216.

16. To section two hundred and sixteen, the following explanation shall be added (namely) :—

"EXPLANATION III.—The charge shall be prepared as soon as the Magistrate is of opinion that a *prima facie* case has been established against the accused person, although the whole of the evidence for the prosecution may not have been completed."

Amendment of section 222, para. (10).

17. In section two hundred and twenty-two, for paragraph (10), the following shall be substituted (namely) :—

"(10.) Insult with intent to provoke a breach of the peace under section five hundred and four, and criminal intimidation under section five hundred and six, of the Indian Penal Code."

Amendment of section 231.

18. In section two hundred and thirty-one, for "section four hundred and seventy-two," the following words shall be substituted (namely) :—

"Section thirty-three, section four hundred and thirty-five, section four hundred and seventy-two, or section four hundred and seventy-four."

19. To section two hundred and forty-seven, the following words shall be prefixed

Amendment of section 247.

(namely) :—"The person conducting the prosecution shall then open his case, and"

Amendment of section 249.

20. For the first paragraph of section two hundred and forty-nine, the following shall be substituted (namely) :—

"When a witness is produced before the Court of Session or before the High Court in the exercise of its original or appellate criminal jurisdiction, the evidence given by him before the committing Magistrate may, in the discretion of the presiding Judge, be treated as evidence in the case, if it was duly taken in the presence of the accused person."

21. In the fourth paragraph of section two hundred and sixty-three, after the word "verdict," the words "of the jurors or" shall be inserted ; and

Amendment of section 268.

for the fifth and sixth paragraphs of the same section the following shall be substituted (namely) :—

"If the Court disagrees with the verdict of the jurors, or of a majority of the jurors, on all or any of the charges on which the prisoner has been tried, and considers it necessary for the ends of justice to do so, it may submit the case to the High Court. If the

Court does so, it shall not record judgment of acquittal or of conviction on any of the charges on which the prisoner has been tried; but it may either remand him to custody or admit him to bail.

"The High Court shall deal with the case so submitted as it would deal with an appeal, but it may acquit or convict the accused person on the facts as well as law, without reference to the particular charges as to which the Court of Session may have disagreed with the verdict; and if it convict him, shall pass such sentence as might have been passed by the Court of Session."

Amendment of section 271.

22. For section two hundred and seventy-one, the following sections shall be substituted (namely):—

Appeal from sentence of Sessions Judge.

"271. Any person convicted on a trial held by a Sessions Judge may appeal to the High Court.

"An appeal may lie on a matter of fact as well as a matter of law, except where the conviction was in a trial by jury, in which case the appeal shall be admissible on a matter of law only."

"271A. When any such person is sentenced to death, the Sessions Court shall give him a copy of the sentence and inform him that, if he wishes to appeal, his appeal must be made within seven days; and the Court shall delay the transmission of the reference hereinafter required for a reasonable time not exceeding seven days to allow of the appeal and reference being made at the same time.

"When it appears that the execution of the sentence should not be delayed, the Sessions Court may forward the reference at once, recording its reasons for so doing."

"271B. Where the Judges composing the Court of appeal, reference or revision are equally divided, the case, with their opinions thereon, shall be laid before another Judge, and such Judge, after such examination and hearing as he thinks fit, shall deliver his opinion, and the judgment or order shall follow such opinion."

23. In the second paragraph of section two hundred and seventy-two, for the words "and the rules of limitation shall not apply to appeals presented under this section," the following clause shall be substituted (namely):—"No appeal shall be presented under this section after six months from the date of the judgment complained of."

Amendment of section 272.

24. In the second clause of section two hundred and seventy-four, the last twenty words shall be omitted, and to the section the following explanation shall be added (namely):—

Amendment of section 274.

"EXPLANATION.—A sentence by which imprisonment is awarded in default of payment of fine, is not a sentence by which two or more punishments are combined, within the meaning of the second clause of this section."

Amendment of section 276.

25. For section two hundred and seventy-six, the following shall be substituted (namely):—

"276. If any person affected by a sentence or other order passed by a Criminal Court desires to have a copy of the Judge's charge to the jury or of any other proceeding not being the judgment or order provided for by section four hundred and sixty-four, he shall, on applying for such copy, be furnished therewith provided that he pay for the same, unless the Court, for some special reason, sees fit to furnish it free of cost."

Amendment of section 278.

26. To section two hundred and seventy-eight, the following clause shall be added (namely):—

"In rejecting an appeal under this section, the Appellate Court shall not enhance the sentence."

Amendment of section 279.

27. To section two hundred and seventy-nine, the following words shall be added (namely):—

"and in cases under section two hundred and seventy-two, where the Appellate Court decides to hear the appeal, it shall also cause notice to be given to the respondent."

Amendment of section 280.

28. To the first clause of section two hundred and eighty, the following words shall be added (namely):—

"or order the appellant to be retried."

29. In the second paragraph of section two hundred and ninety-six, the words "Provided that" shall be omitted and the following words shall be added (namely):—"upon the matter of such complaint as at which the accused person has been, in the opinion of the Court or Magistrate, improperly discharged."

"Provided that, if in the opinion of such Court or Magistrate, the evidence shows that some other offence has been committed by the accused person, such Court or Magistrate may direct the Subordinate Court to inquire into such offence."

30. In the third paragraph of section two hundred and ninety-seven, for the word "inconveniently" the word "incorrectly" shall be substituted.

31. For section two hundred and ninety-eight, the following shall be substituted (namely):—

"298. The High Court or the Court of Session may direct the Magistrate of the District, by himself or by any of the Magistrates subordinate to him,

"or the Magistrate of the District may direct any subordinate Magistrate, "to make further inquiry into any complaint which has been dismissed under section one hundred and forty-seven."

32. For the fourth paragraph of section three hundred and two, the following section shall be substituted (namely):—

"302A. In cases tried by any Court inferior to a Court of Session, where the accused person is sentenced to imprisonment, the Court shall forthwith forward him, with a similar warrant for the execution of the sentence to the officer in charge of the jail of the District in which the trial was held :

"But where the accused person is sentenced to whipping, the sentence may be executed at such place and time as the Court may direct."

33. In the third paragraph of section three hundred and eleven, after the word "Magistrate," the words "or a Superintendent of a Jail" shall be inserted.

And in the first and second paragraphs of section three hundred and twelve, after the word "Magistrate," the words "or Superintendent" shall be inserted.

34. To the first clause of section three hundred and twenty-two the following words shall be added (namely), "or grant a reprieve or respite in respect of such sentence," and the following clauses shall be added to the same section (namely):—

"This section applies to all punishments inflicted by the High Court. Provided that nothing herein contained shall be deemed to interfere with the right of Her Majesty to grant pardons, reprieves, respites or remissions of punishment:

"When any fine or forfeiture is imposed on any person for any offence, the Governor-General in Council or the Local Government may (subject to the provisions of section three hundred and eight) direct that a share or proportion of such fine be paid over to the prosecutor towards defraying his expenses, as the Governor-General in Council or the Local Government thinks fit."

35. After the second paragraph of section three hundred and thirty, the following shall be inserted (namely):—

"If the witness is within the local limits of the ordinary original jurisdiction of any of the High Courts of Judicature at Fort William, Madras and Bombay, the Court dispensing with his personal attendance may direct a commission to any Police Magistrate within such limits, and such Police Magistrate shall have the like power to compel the attendance and examination of witnesses as he possesses for that purpose in cases pending before him."

And in the third paragraph of the same section, for the words "to which," the words "upon which" shall be substituted, and for the words "cause a return to be made," the words "shall examine the witness" shall be substituted, and after the word "Magistrate," the words "or Police Magistrate" shall be inserted.

And after the fourth paragraph of the same section, the following paragraph shall be inserted (namely):—

"After any commission issued under this section has been duly executed, it shall be returned, together with the deposition of the witness examined thereunder, to the



Court out of which it issued; and the commission, the return thereto, and the deposition of such witness may be used as evidence in the case and shall form part of the record."

36. In section three hundred and seventy-nine the following words shall be omitted (namely), "by or under the direction of an officer in charge of a Police-station, or by a Police officer making an investigation."

37. In the second paragraph of section three hundred and ninety-eight, for the words "accused person," the words "party or witness" shall be substituted.

38. In section four hundred and eighteen, before the word "trial," the words "inquiry or" shall be inserted; and to the same section the following explanation shall be added (namely):—

"EXPLANATION.—In this section the term 'property' includes not only such property as has been originally in the possession or under the control of any party, but also any property into or for which the same may have been converted or exchanged, and anything acquired by such conversion or exchange, whether immediately or otherwise."

39. To section four hundred and twenty-five, the following clause shall be added (namely):—

"The trial of the fact of the unsoundness of mind of the accused person shall be deemed to be part of his trial before the Court."

40. For the first sentence of the illustration to section four hundred and fifty-one, the following shall be substituted (namely):—

"A is convicted of an offence under section 196 of the Indian Penal Code upon a charge which omits to state that he knew the evidence which he corruptly used or attempted to use as true or genuine, was false or fabricated."

41. For the second paragraph of section four hundred and sixty-four, the following shall be substituted (namely):—

"The judgment or order shall be explained to the accused person or persons affected by it, and on his application a copy thereof shall be given to him without delay free of cost and in his own language, if practicable; if not, in the language of the Court."

And to the seventh paragraph of the same section, the following words shall be added, (namely):—

"where such error or defect is in a matter not affecting the merits of the case."

42. To section four hundred and sixty-six, the following clause shall be added (namely):—

"In this section the expressions 'Judge' and 'public servant' shall be taken to have the meaning assigned to them respectively by the Indian Penal Code."

43. Chapter XXXVI (*Of the Dispersion of unlawful Assemblies*) shall be deemed to apply to the towns of Calcutta, Madras and Bombay, and the word "Magistrate," wherever it occurs in the said chapter, shall be deemed to include a Magistrate of Police.

44. To section five hundred and three, the following words shall be added (namely):—"And in case such penalty cannot be so recovered, the surety shall be liable, by order of such Magistrate, to imprisonment in the civil jail for a period not exceeding six months."

45. In section five hundred and twenty-seven, for the words "four hundred and twenty-one," the words "five hundred and twenty-one" shall be substituted.

46. In the third column of the fourth schedule to the Code of Criminal Procedure, opposite No. 323, for the words "Shall not arrest without warrant," the words "May arrest without warrant" shall be substituted; and opposite No. 428, for the word "Ditto," the words "May arrest without warrant" shall be substituted.

47. In this Act, "section" means section of the Code of Criminal Procedure.

And all references to the Code of Criminal Procedure made in Acts heretofore passed or hereafter to be passed shall be read as if made to such Code as amended by this Act.



## ACT XII OF 1874.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

*(Received the assent of the Governor-General on the 2nd September 1874.)**An Act to provide for the exercise, in Sylhet, of the powers of the Lieutenant-Governor and Board of Revenue of Bengal.*

**Preamble.** WHEREAS the District of Sylhet is about to be transferred from the Lieutenant-Governorship of Bengal to the Chief Commissionership of Assam, and it is therefore necessary to provide for the exercise, within the said District, of the powers now vested in or exercisable by the Lieutenant-Governor of Bengal and the Board of Revenue for the Lower Provinces of the Presidency of Fort William in Bengal, respectively; It is hereby enacted as follows:—

**1.** All powers over the whole or any portion of the said District, which at the time of the said transfer are, under or by virtue of any law or regulation, vested in, or exercisable by, the said Lieutenant-Governor or Board of Revenue, shall, on the said transfer, become vested in the Governor-General in Council.

**2.** The Governor-General in Council may, from time to time, delegate to the Chief Commissioner of Assam all or any of the said powers, and withdraw any powers so delegated.

## THE EUROPEAN BRITISH MINORS ACT, 1874.

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ACT XIII OF 1874.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 8th December 1874.)

*An Act to provide in the Panjáb and elsewhere for the guardianship of European British Minors.*

WHEREAS it is expedient to provide in the Panjáb, Oudh, the Central Provinces, British Burma, Coorg, Ajmer and Mairwára and Assam for the guardianship of minors who either are born in the United Kingdom or any British colony, or are the children or grandchildren of persons so born; It is hereby enacted as follows:—

PART I.

PRELIMINARY.

- |  |   |
|--|---|
| Short title.   | 1. This Act may be called "The European British Minors Act, 1874."  |
| It extends to the territories respectively subject to the government of the Lieutenant-Governor of the Panjáb and to the administration of the Chief Commissioners of Oudh, the Central Provinces, British Burma, Coorg, Ajmer and Mairwára and Assam; |   |
| Local extent.  | So far as relates to minors, it applies only to persons born in the United Kingdom of Great Britain and Ireland, or any British colony, plantation or settlement other than British India, and to their children and grandchildren; |
| Personal application.  | And it shall come into force at once.   |
| Commencement.  | 2. In this Act—   |
| Interpretation-clause.   | 'Minor' means a person who has not completed the age of eighteen years;   |
| 'Minor.'   |   |

'Guardian.'

'Guardian' means a person who is appointed to take care of a minor's person or property, or both; and

'Court.'

'Court' means the highest Civil Court of appeal in any territory (other than British Burma) to which this Act extends.

In British Burma 'Court' means, in the Town of Rangoon, the Court of the Recorder of Rangoon, and, elsewhere, the Court of the Deputy Commissioner.

## PART II.

### APPOINTMENT OF GUARDIANS.

3. A guardian of the person or property, or both, of any minor may be appointed by will or other instrument to take effect upon the death of the parent appointing—

(a) if the minor is legitimate, by the father, or by either parent if the other is dead or incapable of acting;

(b) if the minor is illegitimate, by the mother.

4. If the Court within the local limits of whose jurisdiction any minor resides finds that the guardianship of his person or property has not been sufficiently provided for under section three, the Court may appoint a guardian of his person or property, or both, as the case may be.

If the minor has several properties, the Court may, if it think fit, appoint a guardian for each such property.

If the Court appoints a guardian for any property situate beyond the local limits of its jurisdiction, the Court within the local limits of whose jurisdiction such property may be situate shall accept such guardian as duly appointed and give effect to the order appointing him.

5. Whoever desires to be appointed the guardian of a minor's person or property, or both, may apply to the Court within the local limits of whose jurisdiction the minor resides by petition setting forth the grounds of his application, and showing—

(a) the minor's age and residence;

(b) the nature and amount of his property;

(c) what relatives he has in India or elsewhere, and

(d) the qualifications of the proposed guardian and his willingness to act as such.

The petition shall bear a stamp of five rupees, and the statements therein contained shall be verified by the petitioner or some other competent person in manner required by law for the verification of plaints, and may at the hearing be referred to as evidence.

The Court, if satisfied that there is ground for proceeding, shall give notice of the application to the person (if any) named in the petition as having the custody or being in possession of the person or property of such minor, as well as to any other person whom the Court may think should receive such notice, and shall fix as early a day as may be convenient for the hearing of the petition.

6. The Court may direct that the person (if any) having the custody of such minor shall produce him at such place and time as may be appointed by the Court, and may make such order for the temporary custody and protection of the minor's person or property as may appear proper.

7. On the day fixed for the hearing of the petition or as soon after as may be practicable, the petitioner shall adduce evidence to shew the fitness of the proposed guardian:

and the Court shall make such order as it thinks fit in respect to the guardianship of the minor's person or property, or both, and the costs of the case.

8. In cases instituted under this Act, the Court shall be guided by the procedure prescribed in the Code of Civil Procedure in so far as the same is applicable; and any order made by the Court under section six or section seven may be enforced as if such order had been made in a regular suit or on appeal; and all orders made under this Act by Deputy Commissioners in British Burma shall be appealable as if they were decrees.

The forms set forth in the schedule hereto annexed, with such variation as the circumstances of each case require, may be used for the respective purposes mentioned in such schedule.

And the Court may from time to time prescribe rules consistent with this Act for regulating the procedure hereunder :

Provided that, in the case of Courts of Deputy Commissioners in British Burma, such rules shall be prescribed by the Judicial Commissioner.

9. Save as provided by section eight, no order passed under this Act in respect to the guardianship of a minor's person or property shall be liable to be contested in any other proceeding:

10. In appointing the guardian of a minor, the Court shall be guided by the following considerations :—

(a).—By what appears to be for the best interest of the minor in respect to his temporal and his mental and moral welfare ; and if the minor is old enough to form an intelligent preference, the Court may consider that preference :

(b).—As between parents adversely claiming the custody or guardianship, neither parent is entitled to it as of right ; but if, other things being equal, the minor is of tender years, he should be given to the mother : if he is of an age to require education and preparation for labour and business, then to the father :

(c).—The Court shall also consider the following circumstances according as they may bear upon the guardianship of person or of property :—

(1.) Nearness of relationship ;

(2.) The wishes of a deceased parent ;

(3.) Any existing or previous connection of the proposed guardian with the minor's person or property.

### PART III.

#### GUARDIANS' DUTIES, RIGHTS AND LIABILITIES.

##### *A.—Guardians of the Person.*

Duties of guardian of the person.

11. A guardian of the person is charged with the custody of the ward, and must look to his support, health and education.

12. A ward is presumed to be of his father's religion ; and the guardian, in the absence of the Court's direction to the contrary, must train the ward in such religion. If the ward is old enough to form an intelligent preference for any religion, the Court, in giving such direction, shall attend to such preference.

Ward's religion.

13. Any ward who may desert his home may be compelled by order of the Court to return. But such order may be withheld by the Court if it appears—

(a) that the ward has been subjected to maltreatment at the hands of his guardian ;

(b) that the conduct of the guardian in other respects renders him unfit for the office, or

(c) that the ward is on reasonable grounds unwilling to return and is old enough to form an intelligent preference on such a subject.

14. No guardian of the person appointed by the Court shall, without the leave of the Court, remove its ward from the limits of its jurisdiction.

Any person wilfully contravening this prohibition shall be liable by order of the Court to fine not exceeding one thousand rupees, or to imprisonment for a term which may extend to six months, or to both.

##### *B.—Guardians of Property.*

Duties of guardian of property.

15. A guardian of the property shall keep safely the property of his ward.

In the case of immoveable property, he shall not suffer any waste, but shall maintain the buildings (if any) thereon and their appurtenances out of the rents and profits of the property.

Prohibition of waste.

16. The guardian of any immovable property may make leases for any term not exceeding a year, or from year to year, of such property or any part thereof; and with the sanction of the Court, may make such lease of the property, or any part thereof, for such term of years and subject to such rents and covenants as the Court may direct; but in no such case shall any fine or premium be taken.

The lease shall be settled by an officer of the Court, and a counterpart thereof shall be executed by the lessee, and shall be deposited for safe custody in the Court until the ward completes the age of eighteen years; but all proper parties shall have the use thereof, if necessary, for the purpose of enforcing any covenant therein contained.

17. The Court may order that the principal of the ward's property, or any part thereof, shall be applied for his maintenance, education, or advancement, and the guardian of such property shall obey such order.

Rules as to guardians of property.

18. Every guardian of the property of a minor shall—

- (a) give such security, if any, as the Court thinks fit duly to account for what he shall receive in respect of the minor's property;
- (b) pass his accounts at such periods and in such form as the Court directs;
- (c) pay the balance due from him thereon;
- (d) be entitled to such allowance, if any, as the Court thinks fit for his care and pains in the execution of his duties;
- (e) be responsible for any loss occasioned to the property by his wilful default or gross negligence.

#### C.—As to all Guardians.

Minor guardians incompetent to act.

19. No person appointed a guardian shall be competent to act as such unless he has completed the age of eighteen years.

Guardian under control of Court.

20. Every guardian, whether appointed by a parent or under this Act by a Court, is subject to the control of the Court within the local limits of whose jurisdiction he resides.

Death of joint guardian.

21. On the death of one of two or more joint guardians, whether appointed by a parent or under this Act, the power continues to the survivor or survivors until a further appointment is made by the Court.

Removal of guardian.

22. A guardian may be removed by the Court for any of the following causes:—

- (a) for abuse of his trust;
- (b) for continued failure to perform its duties;
- (c) for incapacity to perform its duties;
- (d) for gross immorality;
- (e) for having an interest adverse to the faithful performance of his duties;
- (f) for removal from the local limits of the jurisdiction of the Court;
- (g) the arrival within such local limits of some person whose guardianship the Court may think likely to be more beneficial to the minor than the guardianship of the person so removed;

(h) in the case of a guardian of the property, for insolvency.

Appointment of successor.

In any such case the Court may appoint a successor to the guardian so removed.

Resignation of guardian.

23. Any guardian, whether appointed by a parent or by the Court, desiring to resign his office may apply to the Court to discharge him,

and if the Court finds that there is some other proper person whom it may appoint to such guardianship, it shall discharge the guardian accordingly and appoint such other proper person in his place.

Application for appointment on guardian's removal or resignation.

24. Applications for appointments under section twenty-two or section twenty-three shall be made in manner provided in section five; and the procedure thereon shall be in accordance with section seven.

Close of authority of guardian.

25. The power of a guardian of the person ceases—

- (a) by his removal or discharge;
- (b) by the ward's attaining majority, and,

- (c) in the case of a female ward, by her marriage followed by cohabitation.  
 The power of a guardian of the property ceases—  
 (a) by his removal or discharge;  
 (b) by the ward's attaining majority.

## SCHEDULE.

### I.—Petition for Appointment of Guardian.

(See section 5).

In the Chief Court of the Panjáb [or In the Court of the Recorder of Rangoon, or as the case may be].

In the matter of A. B., a minor, by C. D., his next friend.

To Mr. Justice (or as the case may be).

The petition of C. D. of

Sheweth—

1. The said A. B. is now of the age of \_\_\_\_\_ years and upwards. He is the same person as 'A., son of C. and L. B.' named in the paper-writing now produced and shown to me and marked A, and purporting to be a copy under the seal of the General Register Office of the entry No. \_\_\_\_\_ in the certified copy of entries of births in the district of D, in the county of L, for the year 187 \_\_\_\_\_.

2. The said A. B. is absolutely entitled, under the will of his maternal uncle E. F., late of (residence and addition) to the following properties, (namely) :—

- (a) a house in \_\_\_\_\_ let to N. O. as yearly tenant at Rs. 1,000 a year.
- (b) Rs. 20,000 in the four per cent. securities of the Government of India, standing in the names of R. S. and T. W., the trustees of the will of the said E. F.
- (c) Rs. 800 cash in the hands of the said R. S. and T. W., arisen from dividends on the said stock.

3. The only relations of the said A. B. now living are—(a), your petitioner, his maternal uncle; (b)—S. H., wife of T. H. of (residence and addition), the half-sister of the said A. B., and (c)—R. D. V., the half-brother of the said A. B., who is a Captain in Her Majesty's Army, and now stationed at Bombay.

4. The said A. B. was, at the time of the death of his father, C. B., which happened on the \_\_\_\_\_ 187 \_\_\_\_\_, and is now, residing as a scholar at Bishop Cotton's School, Simla, in the custody of the Rev. M. N., the headmaster.

5. Your petitioner [here state his qualifications as guardian, e.g., that he has attained his majority, is married, has children, resides with his family at some reasonably healthy place, mentioning it, holds a responsible office, stating it], and is willing to act as the guardian of the person and property [or as may be] of the said A. B. during his minority in case this Hon'ble Court shall think fit to appoint me to that office.

Your petitioner therefore prays this Hon'ble Court—

1. That your petitioner or some other proper person may, upon giving security, be appointed the guardian of the person and property of the said A. B. during his minority, or until further order.

2. And that the said C. D. or other such guardian may from time to time pass his accounts and pay the balances which shall be certified to be due from him into the Government Treasury to the credit of this matter, and that such balances may be laid out in securities of the Government of India, or in loans or bonds secured by the Imperial Parliament on the revenues of India, or in debentures of railways guaranteed by the Government of India, and the interest to accrue thereon and all accumulations of interest be laid out in like manner.

3. And that the costs of this petition may be taxed as between attorney and client; and that the said C. D. or other such guardian may retain and pay the same out of any monies of the said minor which may come to his hands and be allowed the same on passing his said accounts.

(Signed) C. D.

### Form of Verification.

(See section 5.)

I, C. D., the petitioner named in the above petition, do declare that what is stated therein is true to the best of my information and belief.

### II.—Affidavit of Fitness of Guardian.

(See section 7.)

In the Chief Court, &c., (or as the case may be).

In the matter of A. B., a minor, by C. D., his next friend.

1. *E. F.*, of (residence and addition), make oath and say as follows :—

1. I know and have for \_\_\_\_\_ years past been well acquainted with *C. D.*, the petitioner in this matter.

2. The said *C. D.* is married and has \_\_\_\_\_ children, namely, a son of the age of \_\_\_\_\_ years and \_\_\_\_\_ daughters of the respective ages of \_\_\_\_\_ and \_\_\_\_\_ years.

3. The said *C. D.* resides with his wife and children at \_\_\_\_\_

4. In my judgment and belief the said *C. D.* is a fit and proper person to be appointed guardian of the person and property of his nephew, the said minor *A. B.*, for the following reasons (state them) :—

Sworn at \_\_\_\_\_, this \_\_\_\_\_ day of \_\_\_\_\_ 187\_\_\_\_, before me \_\_\_\_\_ *E. F.*

(Official character and description of *E. F.*)

### III.—Recognizance by a Guardian of property and his surety, after an order appointing him subject to his giving security.

Stamp  
as in case of  
a bond.

(Short title.)  
The senior Judge of the  
Chief Court of the  
Panjab [or as the case  
may be] has approved  
of and allowed this  
recognizance.

X. Y. Z.  
Registrar.

*C. D.*, (the principal), of (residence and addition), and *L. M.* (the surety) acknowledge themselves and each of them acknowledges himself to owe to the Secretary of State for India in Council the sum of Rs. [to be regulated by the sum which the guardian is likely to receive during the currency of his periodical account] to be paid to the said Secretary of State for India in Council; and unless they pay the same, they, the said *C. D.* and *L. M.*, do and each of them doth grant for himself, his executors and administrators that the said sum shall be levied and received from them and each of them and from their and his moveable and immoveable property.

Dated the \_\_\_\_\_ day of \_\_\_\_\_ 187\_\_\_\_.

WHEREAS, by an order of the Court of \_\_\_\_\_, made by (name the Judge), in a certain matter there depending, intitled 'In the matter of \_\_\_\_\_' [Recite the order appointing the guardian, subject to his giving security, and continue thus] :—

And whereas (name the Judge who has approved of the surety and recognizance) has approved of the above-bounden *L. M.* as surety for the said *C. D.*, and hath also approved of the above written recognizance with the under-written condition as a proper security to be entered into by the said *C. D.* and *L. M.* pursuant to the said order, and in testimony of the said approbation, the Registrar [or as the case may be] of the said Court hath signed an allowance in the margin thereof.

Now the condition of the above-written recognizance is such, that if the said *C. D.* shall duly account for every sum of money which he shall receive on account of the property of the said minor *A. B.* and the rents and profits and other income thereof, at such periods as the said Judge shall appoint, and shall duly pay the balances which shall from time to time be certified to be due from him as the said Court or Judge hath directed, or shall hereafter direct, then the above recognizance shall be void, otherwise the same shall remain in force.

*C. D.* { Taken and acknowledged by the above-named *C. D.* and *L. M.*, at \_\_\_\_\_ in  
*L. M.* { this \_\_\_\_\_ day of \_\_\_\_\_ 187\_\_\_\_ before me \_\_\_\_\_

(Signature and style of office of the officer

by whom the recognizance is taken.)

ACT XIV OF 1874.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor General on the 8th December 1874.)

*An Act to ascertain the enactments in force in various parts of British India, and for other purposes.*

**Preamble.** WHEREAS various parts of British India have never been brought within, or have from time to time been removed from, the operation of the general Acts and Regulations and the jurisdiction of the ordinary Courts of Judicature;

And whereas doubts have arisen in some cases as to which Acts or Regulations are in force in such parts, and in other cases as to what are the boundaries of such parts: And whereas among such parts are the territories specified in the first schedule hereto annexed, and it is expedient to provide readier means than now exist for ascertaining the enactments in force in such territories and the boundaries thereof, and for administering the law therein:

And whereas it is expedient to declare that certain Acts are in force in a tract of land lying between the Railway Station at Satná and the eastern boundary of the Jabalpur Division:—

It is hereby enacted as follows:—

**Short title.** 1. This Act may be called “The Scheduled Districts Act, 1874:”

**Local extent.** This Act extends in the first instance to the whole of British India other than the territories mentioned in the first schedule hereto annexed, and it shall come into force in each of the Scheduled Districts on the issue of a notification under section three relating to such District.

**Interpretation-clause.** In this Act the term “Scheduled Districts” means the territories mentioned in the first schedule hereto annexed; and, from the date fixed in the resolution next hereinafter mentioned, it shall also include any other territory to which the Secretary of State for India, by resolution in Council, may declare the provisions of the thirty-third of Victoria, chapter three, section one, to be applicable.

**Repeal of enactments.** 2. The enactments mentioned in the second schedule hereto annexed shall be repealed.

**Notification of enactments in force in Scheduled Districts.** 3. The Local Government, with the previous sanction of the Governor General in Council, may from time to time, by notification in the *Gazette of India* and also in the local *Gazette* (if any)—

(a) declare what enactments are actually in force in any of the Scheduled Districts, or in any part of any such District;

(b) declare of any enactment that it is not actually in force in any of the said Districts or in any part of any such District;

(c) correct any mistake of fact in any notification issued under this section:

Provided that a declaration once made under clause (a) or clause (b) of this section shall not be altered by any subsequent declaration other than a declaration under clause (c) of this section.

**Effect of notification under section 3.** 4. On the issue, under section three, of a notification declaring what enactments are in force, or not in force, in any Scheduled District, the enactments so notified shall be deemed to be in force or not in force, according to the tenor of the notification, in such District, and every such notification shall be binding on all Courts of law.

**Power to extend enactments to Scheduled Districts.** 5. The Local Government, with the previous sanction of the Governor General in Council, may from time to time, by notification in the *Gazette of India* and also in the local *Gazette* (if any), extend to any of the Scheduled Districts, or to any part of any such District, any enactment which is in force in any part of British India at the date of such extension.



Appointment of officers  
and regulation of their  
procedure.

## 6. The Local Government may from time to time—

(a) appoint officers to administer civil and criminal justice and to superintend the settlement and collection of the public revenue, and all matters relating to rent, and otherwise to conduct the administration, within the Scheduled Districts,

(b) regulate the procedure of the officers so appointed; but not so as to restrict the operation of any enactment for the time being in force in any of the said Districts,

(c) direct by what authority any jurisdiction, powers or duties incident to the operation of any enactment for the time being in force in such District shall be exercised or performed.

7. All rules heretofore prescribed by the Governor General in Council or the Local Government for the guidance of officers appointed within any of the Scheduled Districts for all or any of the purposes mentioned in section six and in force at the time of the passing of this Act, shall continue to be in force unless and until the Governor General in Council or the Local Government, as the case may be, otherwise directs.

All existing officers so appointed previous to the date on which this Act comes into force in such District, shall be deemed to have been appointed hereunder.

8. Whenever any question arises as to the line of boundary between any of the Scheduled Districts and other territory, such officer as the Local Government or (where the said District and the other territory are not subject to the same Local Government) as the Governor General in Council from time to time appoints, may consider and determine such line of boundary;

and the order made thereon by such officer, if confirmed by the Government which appointed him, shall be conclusive in all Courts of Justice.

9. Any person liable to be imprisoned or to be transported beyond sea under any order or sentence passed by any officer appointed under section six, may (subject to such rules as the Governor General in Council may from time to time prescribe in this behalf) be imprisoned in such jail or transported to such place as the Local Government directs.

10. Acts No. III of 1867, No. XIV of 1867, and No. XXV of 1869 are hereby declared to be in force in the tract of land ceded to the British Government in the year 1863 and lying between the Railway Station at Satná and the eastern boundary of the Jabalpur District.

Saving of criminal jurisdiction over European British subjects.

11. Nothing contained in this Act or in any notification issued under the powers hereby conferred shall be deemed—

(a) to affect the criminal jurisdiction of any Court over European British subjects, or

(b) to affect any law other than laws contained in Acts or Regulations or in rules made in exercise of powers conferred by such Acts or Regulations.

## THE FIRST SCHEDULE.

(See section 1.)

### PART I.

#### SCHEDULED DISTRICTS, MADRAS.

##### I.—In Ganjam.

- (1.) The Gumsur Maliahs, including Chokupad.
- (2.) The Sarada Maliahs.
- (3.) The Chinna Kimedi Maliahs.
- (4.) The Pedda Kimedi Maliahs.
- (5.) The Bodaguda Maliahs.
- (6.) The Surangi Maliahs.
- (7.) The Parla Kimedi Maliahs.
- (8.) The Mutts of Koradá and Rombe (otherwise called Srikarma).

- (9.) The Chighatti Maliah.
- (10.) The Juradá Maliah.
- (11.) The Jalandra Maliah.
- (12.) The Mandasa Maliah.
- (13.) The Budarasinghi Maliah.
- (14.) The Kuttingia Maliah.

II.—*In Vizagapatam.*

- (1.) The Jeypur Zamíndárl.
- (2.) Golconda Hills, west of the River Boderu.
- (3.) The Madugol Maliahs.
- (4.) The Kasipur Zamíndárl.
- (5.) The Panchipenta Muliahs.
- (6.) Mondemkolla, in the Merangi Zamíndárl.
- (7.) The Konda Muttá of Belgám.
- (8.) The Gumma and Konda Muttás of Kurpam.
- (9.) The Kottam, Rám and Konda Muttás of Pálkonda.

III.—*In the Goddvari District.*

- (1.) The Bhadráchalam Táluq.
- (2.) The Rákupilli Táluq.
- (3.) The Rampá Country.

IV.—*In the Indian Ocean.*

The Laccadive Islands, including Minicoy.

PART II.

SCHEDULED DISTRICTS, BOMBAY.

- I.—The Province of Sindh.
- II.—The Pauch Maháls.
- III.—Aden.
- IV.—The villages belonging to the following Mehwassi Chiefs :
  - (1.) The Párví of Káthí.
  - (2.) The Párví of Nál.
  - (3.) The Párví of Singpúr.
  - (4.) Walvi of Gaohálí.
  - (5.) The Wassáwa of Chikhli.
  - (6.) The Párví of Nawalpúr.

PART III.

SCHEDULED DISTRICTS, BENGAL.

- I.—The Jalpágorí and Darjeeling Divisions.
- II.—The Hill Tracts of Chittagong.
- III.—The Santhál Parganas.
- IV.—The Chutiá Nágpur Division.
- V.—The Maháls of Angúl and Banki.

PART IV.

SCHEDULED DISTRICTS, NORTH-WESTERN PROVINCES.

- I.—The Jhánsí Division, comprising the Districts of Jhánsí, Jalaun and Lalatpur.
- II.—The Province of Kumáon and Garhwál.
- III.—The Terai Parganas, comprising—Bázipúr, Káshipúr, Jaspúr, Rudarpúr, Gadarpúr, Kilpúrl, Nanak-Matthá and Bilherí.
- IV.—In the Mirzapur District—
  - (1.) The tappás of Agorí Khás and south Kon in the Pargana of Agorí.
  - (2.) The tappá of British Singrauli in the pargana of Singrauli.
  - (3.) The tappás of Phulwá, Dudhí and Barhá in the Pargana of Bichipár.
  - (4.) The portion lying to the South of the Kaimor Range.
- V.—The family Domains of the Mahárájá of Benares, comprising the following parganas :—
  - Bhadoli and Kheyra Mángror in the Mirzapur District,
  - Kaswá Rájá in the Benares District.
- VI.—The tract of country known as Jaunsar Báwar in the Dehra Dún District.

## PART V.

## SCHEDULED DISTRICTS, PANJAB.

The Districts of Hazára, Pesháwar, Kohát, Bannu, Dera Ismail Khán, Dera Gházi Khán, Lahaul and Spiti.

## PART VI.

## SCHEDULED DISTRICTS, CENTRAL PROVINCES.

*Chhattisgarh Zamindárís, viz :—*

1. Kharáár.	13. Máti.
2. Bhirá Nawágarh.	14. Uprorá.
3. Sahezpúr.	15. Kendá.
4. Gándai.	16. Láphá.
5. Silhetá.	17. Chhurá.
6. Barbaspúr.	18. Korbá.
7. Thákurtolá.	19. Chapá.
8. Iohára.	20. Bora Sámblar.
9. Gondardehi.	21. Phúljar.
10. Kíngeswar.	22. Kolabhá.
11. Pándulá.	23. Rampúr.
12. Pendiá.	

*Chándá Zamindárís.*

1. Alírá.	11. Muramgáon.
2. Ámbágarh Chauki.	12. Panabaras.
3. Áundli.	13. Palasgarh.
4. Dhanorá.	14. Rangl.
5. Dudhmalá.	15. Sisundl.
6. Gewadá.	16. Sonaur.
7. Jhátápáprá.	17. Chandálá.
8. Khutgaon.	18. Gulghon.
9. Kowachá.	19. Pawi Mutándá.
10. Kotgal.	20. Pategaon.

*Chhindwára Jágirdárís.*

1. Harái.	7. Pachnarhi.
2. Chháter.	8. Partabgarh.
3. Gorakhlghát.	9. Almod.
4. Gorpani.	10. Sonpúr.
5. Bastagarh.	11. Bariám Pagará.
6. Bardagarh.	

## PART VII.

The Chief Commissionership of Coorg.

## PART VIII.

The Chief Commissionership of the Andaman and Nicobar Islands.

## PART IX.

The Chief Commissionership of Ajmer and Mairwara.

## PART X.

The Chief Commissionership of Assam.

## PART XI.

The Hill Tracts of Arakan.

## PART XII.

The Pargana of Mánpur.

## PART XIII.

The Cantonment of Morar.

## THE SECOND SCHEDULE.

(See section 2.)

Number and Year.	Title.
XI of 1846	... An Act for the exemption of certain Territory in the Province of Candeish and the Zillah Ahmednuggur from the operation of the general Regulations.
XXXVII of 1855	... An Act to remove from the operation of the general Laws and Regulations certain Districts inhabited by Sonthals and others, and to place the same under the superintendence of an Officer to be specially appointed for that purpose.
X of 1857	... An Act to amend Act XXXVII of 1855.
XXII of 1860	... An Act to remove certain tracts on the eastern border of the Chittagong District from the jurisdiction of the tribunals established under the general Regulations and Acts.
XIV of 1861	... An Act to remove certain tracts of Country in the Rohilcund Division from the jurisdiction of the tribunals established under the general Regulations and Acts.
XIX of 1864	... An Act to remove certain tracts of Country in the District of Mirzapore from the jurisdiction of the local Courts.
IV of 1868	... An Act to exempt certain villages in the Bombay Presidency from the operation of the Regulations and Acts in force in that Presidency.
XXII of 1869	... An Act to remove the Gáro Hills from the jurisdiction of the tribunals established under the general Regulations and Acts and for other purposes.
BENGAL ACT.	
IV of 1863	... An Act to amend Act XXII of 1860 (to remove certain tracts on the eastern border of the Chittagong District from the jurisdiction of the tribunals established under the general Regulations and Acts).

## ACT XV OF 1874.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor General on the 8th December 1874.)

*An Act for declaring the local extent of certain Enactments, and for other purposes.*

WHEREAS it is expedient to declare the local extent of certain Acts passed by the Governor General of India in Council, the Legislative Council of India, and the Council of the Governor General of India assembled for the purposes of making Laws and Regulations; And whereas it is also expedient to consolidate the laws relating to the local extent of certain Acts and Regulations in the Presidencies of Fort St. George and Bombay, and in the Lower and the North-Western Provinces of the Presidency of Fort William in Bengal; It is hereby declared and enacted as follows:—

Short title.

1. This Act may be called "The Laws Local Extent Act, 1874."

Interpretation-clause.

2. In this Act the expression "Scheduled Districts" means the territories mentioned in the sixth schedule hereto annexed.

3. The Acts mentioned in the first schedule hereto annexed are now in force throughout the whole of British India, except the Scheduled Districts.

4. The enactments mentioned in the second schedule hereto annexed are now in force throughout the whole of the territories now subject to the government of the Governor of Fort St. George in Council, except the Scheduled Districts subject to such government.

5. The enactments mentioned in the third schedule hereto annexed are now in force throughout the whole of the territories now subject to the government of the Governor of Bombay in Council, except the Scheduled Districts subject to such government.

6. The enactments mentioned in the fourth schedule hereto annexed are now in force throughout the whole of the territories now subject to the government of the Lieutenant-Governor of Bengal, except the Scheduled Districts subject to such government.

7. The enactments mentioned in the fifth schedule hereto annexed are now in force throughout the whole of the territories now subject to the government of the Lieutenant-Governor of the North-Western Provinces of the Presidency of Fort William, except the Scheduled Districts subject to such government.

8. Nothing herein contained shall—

(a) bar the power of the Governor General in Council or the Local Government, under any law for the time being in force, to extend to any place any Act mentioned in the said first schedule ;

(b) extend any Act empowering the Local Government to extend the same or any part thereof, or affect in any manner the exercise of such power ;

(c) affect the operation of any Act or Regulation heretofore extended to or declared to be in force in any of the Scheduled Districts ;

(d) revive any enactment which has been repealed either generally or with reference to some special subject ;

(e) extend Madras Regulation VII of 1832 to any place in which Madras Act I of 1866 is in force ;

(f) extend Act No. XVII of 1840, or Act No. VII of 1852, or Madras Regulation I of 1805, or Madras Regulation II of 1807, to any place in which Madras Act No. VI of 1871 is in force ;

(g) extend Act No. IX of 1861 to any part of the territories subject to the government of the Governor of Bombay in Council ;

(h) extend Act No. XI of 1841, or No. XII of 1842, to any place in which Bombay Act No. III of 1867 is in force ;

(i) extend to the Villages mentioned in the schedule to Act No. IV of 1868 any law not now in force therein ;

(j) extend to any of the Towns of Calcutta, Madras and Bombay any law not now in force therein ;

(k) affect the operation of any enactment not mentioned in any of the schedules hereto annexed.

9. The enactments mentioned in the seventh schedule hereto annexed shall be repealed to the extent specified in the third column thereof.

#### FIRST SCHEDULE.

(See section 3.)

#### ACTS OF THE SUPREME COUNCIL.

Year and Number.	Subject.
1836, XXVI ... 1837, IV ...	Governor General's Camp Police. Power to acquire land.

FIRST SCHEDULE.—(Continued.)

ACTS OF THE SUPREME COUNCIL.—(Continued.)

Year and Number.		Subject.
1838,	XXV ...	Wills executed before the 1st January 1866.
1839,	XXIX ...	Dower, when marriage was contracted before 1st January 1866.
"	XXX ..	Inheritance, where descent took place before 1st January 1866.
"	XXXII ...	Interest.
1840,	VI ...	Bills of Exchange.
1841,	X ...	Registration of ships.
"	XI ...	Military Courts of Requests.
"	XVIII ...	Exportation of Military Stores.
"	XIX ...	Curators in cases of successions.
1842,	IX ..	Lease and Release.
"	XII ...	Military Bázars.
1843,	V ..	Slavery.
1847,	XX ...	Copyright.
1850,	V ...	Coasting Trade.
"	XI ...	Navigation Laws.
"	XII ...	Default of Public Accountants.
"	XVIII ..	Protection of Judicial Officers.
"	XX ...	Binding of Apprentices.
"	XXI ...	Non-forfeiture of rights by loss of Caste.
"	XXXIV ...	State Prisoners.
"	XXXVII ...	Inquiries into the behaviour of public servants.
1852,	XXX ...	Naturalization of Aliens.
"	XXXIII ..	Enforcement of Judgments of Charter Courts and Military Courts of Requests.
1853,	II ...	Burdens on land.
1854,	XVIII ...	Railways.
"	XXXI ...	Barring entails: Conveyances by married women.
1855,	XI ...	Mesne profits and improvements.
"	XII ...	Executors and Administrators.
"	XIII ...	Compensation for loss occasioned by death caused by actionable wrong.
"	XXIII ...	Administration of mortgaged estates in cases of descents occurring or devised made before the 1st January 1866.
"	XXIV ...	Penal servitude.
"	XXVIII ...	Interest.
1856,	IX ...	Bills of Lading.
"	XI ...	Desertion by European Soldiers.
"	XV ...	Marriage of Hindú Widows.
1857,	XI ...	Offences against the State.
"	XXV ...	Forfeiture by Mutineers.
1858,	III ...	State Prisoners.
"	XXXV ...	Estates of Lunatics not subject to jurisdiction of Supreme Courts.
"	XXXVI ...	Lunatic Asylums.
1859,	I ...	Merchant Seamen.
"	III ...	Cantonment Joint Magistrates.
"	VIII ...	Civil Procedure.
"	IX ...	Sections 16, 17, 18 and 20—Forfeitures.
"	XIV (sec. 15) ...	Suits to recover possession of land.
"	XV ...	Patents.
1860,	XXI ...	Registration of Societies.
"	XXVII ...	Collection of debts on Successions.
1861,	IX ...	Minors.
"	XXIII ...	Amending Civil Procedure Code.
1862,	III ...	Government Seal.
1863,	VI ...	Sea Customs.

## FIRST SCHEDULE.—(Concluded).

## ACTS OF THE SUPREME COUNCIL.—(Concluded).

Year and Number.		Subject.
1863,	XVI ...	Excise Duty payable on Spirits used in Arts and Manufactures.
"	XXIII ...	Claims to waste-lands.
"	XXXI ...	Gazette of India.
1864,	III ...	Foreigners.
"	VI ...	Whipping.
1865,	III ...	Common Carriers.
"	XI ...	Mofussil Courts of Small Causes.
"	XV ...	Marriage and Divorce among Parsees.
"	XXI ...	Intestate succession among Parsees.
1866,	V ...	Bills of Exchange, Commercial Law.
"	X ...	Companies.
"	XXI ...	Dissolution of Marriages of Native Converts.
"	XXVIII ...	Trustees and Mortgagees' Powers.
1867,	X ...	References by Courts of Small Causes in the Mofussil.
"	XXV ...	Printing Presses, &c.
1868,	X ...	Amending Consolidated Customs Act.
1869,	XV ...	Evidence of Prisoners.
1870,	I ...	Quarantine.

## SECOND SCHEDULE.

(See section 4.)

## (a).—MADRAS REGULATIONS.

Year and Number.		Subject.
1802,	III (ss. 1, 11, part of s. 16 only).	Procedure of Civil Courts.
"	V (s. 30) ...	Sadr Adálat to act according to justice, &c.
"	XIII ...	Records of Courts.
"	XIX (s. 2) ...	Covenanted Civil Servants forbidden to lend.
"	XXV ...	Settlement of Land-revenue.
"	XXVI (ss. 1, 2 & 3 only).	Registration of málguzárá land.
"	XXIX ...	Karnams.
1803,	I ...	Board of Revenue.
"	II ...	Conduct of Collectors, &c.
1804,	V ...	Court of Wards.
1805,	I ...	Salt-revenue.
1806,	II (parts of ss. 1 & 7).	Collectors and Karnams.
1807,	II ...	Salt-revenue.
1808,	VII ...	Martial Law.
1816,	IV ...	Village Munsifs.
"	V ...	Village Pancháyats.
"	IX (s. 43 only) ...	Prosecution of Zila Magistrates.
"	XI ...	Sections, 8, 9, 10—Heads of villages: Section 11, cl. 1—Stolen property: Section 13—Discovery of corpses: Section 14—Register of persons confined by heads of villages: and Section 47—Magistrates charged with maintenance of peace.
"	XII ...	Reference of claims regarding land and produce to Village and District Pancháyats.
"	XIV ...	Native Pleders.

SECOND SCHEDULE.—(Concluded.)

(a).—MADRAS REGULATIONS.—(Concluded.)

-Year and Number.				Subject.
1817,	VII	...	...	Maintenance of Bridges, &c. ; Escheats.
"	VIII	(s. 9 only)	...	Sale for arrears of revenue of estate belonging to Native Officer or Soldier.
1819,	I	...	...	Land-revenue.
"	II	...	...	State Prisoners.
1821,	IV	(s. 4)	...	Petty Thefts.
1822,	IV	...	...	Explanation of Madras Regulation XXV, 1802.
"	VII	(cl. 1 of s. 3 only).	...	Native Officers in Revenue and other Public Departments.
"	IX	...	...	Embezzlement by public servants and malversation in revenue matters.
1823,	III	...	...	Powers of Subordinate and Assistant Collectors.
1828,	VII	...	...	Hindu Wills and Estates.
1829,	V	...	...	Prohibition of Widow-burning.
1830,	I	...	...	Unlawful assemblies; threatening Officers; ryots refusing to attend at annual settlement.
1831,	III	...	...	Liability of Ministerial Officers for reception of improperly stamped document.
"	V	(s. 7, cl. 2 only)	...	Hereditary Village Offices.
"	VI	...	...	Prohibition of Sale of Estates of Minors for Arrears of Revenue.
"	X	...	...	Limitation for Suits against orders of Revenue Authorities under Madras Regulation VII of 1828.
1832,	III	...	...	Cantonments.
"	VII	...	...	Hidden Treasure.
"	XI	...	...	Purchase of clothes from Soldiers.
"	XIV	...	...	

(b).—ACTS OF THE SUPREME COUNCIL RELATING TO THE MADRAS PRESIDENCY.

Year and Number.				Subject.
1837,	XXXVI	...	...	Criminal Jurisdiction of Collectors.
1838,	XII	...	...	Hidden Treasure.
1839,	VII	...	...	Tahsildars.
1840,	VIII	...	...	Awards of Pancháyats.
"	XVII	...	...	Penalties for breach of Salt Laws.
1844,	VI	...	...	Duties.
1846,	I	...	...	Pleaders.
"	IX	...	...	Harbours.
1849,	X	...	...	Commissioners of Revenue.
1852,	VII	...	...	Penalties for breach of Salt Laws.
1853,	XX	...	...	Pleaders.
1855,	X	...	...	Section 10—Recusant witnesses.
"	XIV	...	...	Military Bázars.
"	XXI	...	...	Minors.
1856,	VIII	...	...	Control of Gaols.
1857,	VII	...	...	Uncovenanted Agency.
1858,	I	...	...	Compulsory Labour.
"	XIV	...	...	Minors.
"	XXIV	...	...	Police.
1859,	XXVIII	...	...	Boundary Marks.
1860,	XI	...	...	Land Customs.
1869,	XXIV	...	...	Salt.
"		...	...	



## THIRD SCHEDULE.

(See section 5.)

## (a).—BOMBAY REGULATIONS.

Year and Number.			Subject.
1827,	II ...	...	Section 21 (caste questions): sections 47 to 54 (inclusive): and section 56 (pleaders).
"	IV ...	...	Section 26 (law applicable to suits): section 69, clauses <i>second</i> and <i>third</i> (attachment and distraint of crops).
"	V ...	...	Preamble: section 9 (acknowledgments of debt): section 14 (interest): section 15 (mortgages and pledges).
"	VIII ...	...	Administration of Estates.
"	XII ...	...	Preamble: section 19 (Magistrate's power to make rules): section 20 (standards of weights and measures): section 27, clause 2 (supervision of suspected persons): section 37, clauses <i>first</i> and <i>second</i> (responsibility of villages for robberies).
"	XIII ...	...	Section 34, clause <i>third</i> (letter substituted for summons).
"	XVI ...	...	Revenue Administration.
"	XXI ...	...	Sections 1 to 16, inclusive (Duty on opium): sections 46, 54 to 66, inclusive (spirits): sections 67 to 73, inclusive (penalties).
"	XXII ...	...	Section 18 (Furnishing) false certificates to soldiers): section 19 (buying uniform, arms, &c.): section 20 (recovery of value of embezzled stores): sections 40, 41, 42, 43 (passage of troops): sections 45, 46, 47 (requisitions for military aid).
"	XXV ...	...	State Prisoners.
1830,	V ...	...	Section 1 (Revenue Commissioners): section 2, clauses 1, 2, 3 (Collectors and Sub-Collectors).
"	XIII ...	...	Civil jurisdiction of Jāgirdārs.
1831,	XV ...	...	Village Patels.
1832,	II ...	...	Realization of Revenue.
1833,	V ...	...	Hereditary Officers.

## (b).—ACTS OF THE SUPREME COUNCIL RELATING TO THE BOMBAY PRESIDENCY.

Year and Number.			Subject.
1838,	XVI ...	...	Judiciary.
"	XVIII ...	...	Sureties.
"	XIX ...	...	Coasting Vessels.
1839,	XX ...	...	Revenue.
1840,	XV ...	...	Agents of Foreign Sovereigns.
1842,	XIII ...	...	Revenue.
"	XVII ...	...	Revenue Commissioners.
1843,	XI ...	...	Hereditary Officers.
1844,	XIX ...	...	Abolition of Town Duties.
1846,	I ...	...	Pleaders.
"	III ...	...	Sections 1, 5 and 6—Boundary Marks.
1852,	III ...	...	Spiritus Liqueurs.
"	XXI ...	...	Deputy Collectors.
1853,	XX ...	...	Pleaders.
1855,	X ...	...	Section 10—Recusant witnesses.
1856,	VIII ...	...	Control of Gaols.
1864,	XX ...	...	Minors.

## FOURTH SCHEDULE.

(See section 6.)

(a).—BENGAL REGULATIONS (LOWER PROVINCES).

Year and Number.			Subject.
1793,	I ...	...	Perpetual Settlement.
"	II ...	...	Collection of Land Revenue.
"	VIII ...	...	Rules for Decennial Settlement.
"	XI ...	...	Native laws of inheritance to Revenue-paying land.
"	XIX ...	...	Title to lands exempt from Revenue.
"	XXXVII ...	...	Title to lands exempt from Revenue under bādshāhī grants.
"	XXXVIII ...	...	Section 1—Preamble: Section 2—Prohibition of loans by Covenanted Servants.
"	XLVIII ...	...	Quinquennial Register of Revenue-paying lands.
1794,	III ...	...	Sections 12, 13, 16, 17, 18, 19 and 20—Arrears of Revenue.
1795,	LVIII ...	...	Sections 3 and 4—Decrees relating to land exempt from Revenue.
1797,	XV ...	...	Fees for keeping Revenue Records.
1798,	I ...	...	Conditional Sales of Land.
1799,	V ...	...	Wills and Intestacies of Natives.
1800,	VIII ...	...	Pargana Register of Lands.
1801,	I ...	...	Arrears of Revenue: Division of Joint Estates.
1804,	X ...	...	Punishment by Courts Martial of certain State offences.
1806,	XI ...	...	Passage of Troops.
"	XVII ...	...	Sections 7 and 8—Mortgages and conditional sales.
1810,	XIX ...	...	Maintenance of Bridges, &c.; Escheats.
"	XX ...	...	Camp-followers, Bāzārs, Cantonments.
1811,	XI ...	...	Revision of jama on lands ordered to be divided.
1812,	V ...	...	Collection of land-revenue.
"	XI ...	...	Removal of Foreign Emigrants.
1814,	XIX ...	...	Partition of Revenue-paying Estates.
1817,	V ...	...	Hidden Treasure.
"	XX ...	...	Section 28—Abkārī: Section 29—Criminal process in Salt and Opium Departments: Section 30, clauses 1, 2 and 5—Building forts; Collecting scpoys and stores; Encroaching on roads: Section 32—Despatches of treasure.
1818,	III ...	...	State Prisoners.
1819,	II ...	...	Resumption of Revenue-free lands.
"	VI ...	...	Ferries.
1821,	IV ...	...	Powers of Collectors and Magistrates.
1822,	III ...	...	Boards of Land-revenue.
"	XI ...	...	Section 36—Khās management of purchases by Government: Section 38—Non-liability of Government for errors of Courts.
1823,	VI ...	...	Indigo Contracts.
"	VII ...	...	Prohibition of loans to Covenanted Civil Servants.
1825,	VI ...	...	Passage of Troops.
"	IX ...	...	Defaulting Mālguzārs.
"	XI ...	...	Alluvion and diluvion.
"	XIII ...	...	Settlement of resumed Lākhirāj land.
"	XIV ...	...	Authority to confirm Lākhirāj tenures: Native grants.
"	XX ...	...	Courts Martial and Military Courts of Requests.
1827	III ...	...	Section 5—Evidence.
"	V ...	...	Management of Estates under attachment.
1828,	III ...	...	Appeals from decisions of Revenue Authorities.
"	IV ...	...	Section 1 and section 2, clause 4—Time during which Collectors are to be considered engaged in making settlements.

## FOURTH SCHEDULE.—(Continued.)

## (a).—BENGAL REGULATIONS (LOWER PROVINCES).—(Concluded.)

Year and Number.			Subject.
1829,	I ...	...	Commissioners of Revenue and Board of Revenue.
"	IV ...	...	Appeals to Special Commissioners under Regulation III of 1828.
"	XVII ...	...	Widow-burning.
1830	V ...	...	Sections 1 and 5—Indigo Contracts.

## (b).—ACTS OF THE SUPREME COUNCIL RELATING TO THE LOWER PROVINCES.

Year and Number.			Subject.
1896,	X ...	...	Indigo Contracts.
"	XX ...	...	Butwāras.
"	XXI ...	...	Creating Zilas.
1838,	XI ...	...	Remuneration of Amins effecting Partitions.
1841,	XII ...	...	Section 2—No Interest on Arrears of Land-revenue.
1847,	IX ...	...	Assessment of new lands.
1848,	XX ...	...	Land-revenue.
1850,	XLIV ...	...	Board of Revenue.
1853,	XIX ...	...	Section 26—Recusant witnesses.
1855,	XXXII ...	...	Embankments.
1856,	XII ...	...	Civil Court Amins.
"	XX ...	...	Chankidārs.
"	XXI ...	...	Abkārī.
1857,	XIII ...	...	Opium.
1858,	XXXI ...	...	Settlement of Alluvion.
"	XL ...	...	Minors.
1859,	XI ...	...	Sales for Arrears of Revenue.
1860,	XXIII ...	...	Abkārī.

## FIFTH SCHEDULE.

(See section 7.)

## (a).—BENGAL REGULATIONS (NORTH-WESTERN PROVINCES).

Year and Number.			Subject.
1793,	XXXVIII ...	...	Section 1—Preamble: Section 2—Prohibition of loans by Covenanted Servants.
1798,	I ...	...	Conditional sales of land.
1799,	V ...	...	Wills and Administration to Natives.
1804,	X ...	...	Punishment by Courts Martial of certain State Offences.
1806,	XI ...	...	Passage of Troops.
"	XVII ...	...	Sections 7 and 8—Mortgages and conditional sales.
1810,	XIX ...	...	Maintenance and Repair of Bridges, &c.; Escheats.
"	XX ...	...	Camp-followers, Bāzārs, Cantonments.
1812,	XI ...	...	Removal of Foreign Emigrants.
1817,	V ...	...	Hidden Treasure.
1818,	III ...	...	State Prisoners.
1819,	VI ...	...	Ferries.
1822,	XI ...	...	Section 38—Non-liability of Government for errors of Courts.

FIFTH SCHEDULE.—(Concluded.)

(a).—BENGAL REGULATIONS (NORTH-WESTERN PROVINCES).—(Concluded.)

Year and Number.			Subject.
1823,	VI	...	Indigo Contracts.
"	VII	...	Prohibition of loans to Covenanted Civil Servants.
1825,	VI	...	Passage of Troops.
"	XI	...	Alluvion and Dereliction.
"	XX	...	Courts Martial and Courts of Requests.
1827,	III	...	Section 5—Evidence.
"	V	...	Management of Estates under Attachment.
1829,	XVII	...	Widow-burning.
1830,	V	...	Sections 1 and 5—Indigo Contracts.
1831,	VI	...	Section 6—Sadr Adalat.
"	XI	...	Sections 1, 2, 4, 5, 6, 8—Police-powers of Tahasildars.
1833,	I	...	Sadr Board of Revenue.
"	IX	...	Deputy Collectors.

(b).—ACTS OF THE SUPREME COUNCIL RELATING TO THE N. W. PROVINCES.

Year and Number.			Subject.
1836,	X	...	Indigo Contracts.
"	XXI	...	Creating Zilas.
1853,	XIX	...	Section 26—Recusant witnesses.
1854,	XVI	...	Police.
1856,	XII	...	Civil Court Amins.
"	XX	...	Chaukidars.
1857,	XIII	...	Opium.
1858,	XL	...	Minors.

\* SIXTH SCHEDULE.

(See sections 2, 3, 4, 5, 6 and 7.)

PART I.

SCHEDULED DISTRICTS, MADRAS.

I.—In Ganjam.

- (1.) The Gumsur Maliahs, including Chokapad.
- (2.) The Surada Maliahs.
- (3.) The Chinna Kimedi Maliahs.
- (4.) The Pedda Kimedi Maliahs.
- (5.) The Bodaguda Maliahs.
- (6.) The Surangi Maliahs.
- (7.) The Parla Kimedi Maliahs.
- (8.) The Muttas of Korada and Ronaba (otherwise called Srikarma).
- (9.) The Chighatti Maliah.
- (10.) The Jurada Maliah.
- (11.) The Jalantra Maliah.
- (12.) The Mandasa Maliah.
- (13.) The Budarasinghi Maliah.
- (14.) The Kuttingia Maliah.

II.—In Vizagapatam.

- (1.) The Jeypur Zamindari.
- (2.) Golconda Hills, west of the River Boderu.
- (3.) The Madugol Maliahs.

## SIXTH SCHEDULE.—(Continued.)

- (4.) The Kasipur Zamindari.
- (5.) The Panchipenta Maliahs.
- (6.) Mondemkolla, in the Merangi Zamindari.
- (7.) The Konda Muttá of Belgám.
- (8.) The Gumma and Konda Muttás of Kurpam.
- (9.) The Kottam, Rám and Konda Muttás of Pálkonda.

## III.—In the Goddári District.

- (1.) The Bhadráchalam Taluq.
- (2.) The Rakapilli Taluq.
- (3.) The Rampá Country.

## IV.—In the Indian Ocean.

The Laccadive Islands, including Minicoy.

## PART II.

## SCHEDULED DISTRICTS, BOMBAY.

- I.—The Province of Sindh.
- II.—The Panch Maháls.
- III.—Aden.
- IV.—The villages belonging to the following Mehwassi Chiefs :—
  - (1.) The Párví of Káthí.
  - (2.) The Párví of Nál.
  - (3.) The Párví of Singpúr.
  - (4.) Walvi of Gaothálí.
  - (5.) The Wassáwa of Chikhli.
  - (6.) The Párví of Nawalpúr.

## PART III.

## SCHEDULED DISTRICT, BENGAL.

- I.—The Jalpaigori and Darjeeling Divisions.
- II.—The Hill tracts of Chittagong.
- III.—The Shantál Parganas.
- IV.—The Chutiá Nágpur Division.
- V.—The Maháls of Angúl and Banki.

## PART IV.

## SCHEDULED DISTRICTS, NORTH-WESTERN PROVINCES.

- I.—The Jhánsí Division, comprising the Districts of Jhánsí, Jalaun and Lalatpur.
- II.—The Province of Kumáon and Garhwál.
- III.—The Terai Parganas, comprising—Bázpúr, Káshípúr, Jaspúr, Rudarpúr, Gadarpúr, Kilpúri, Nának-Matthá and Bilherí.
- IV.—In the Mirzapur District :—
  - (1.) The tappás of Agori Khás and South Kon in the Pargana of Agori.
  - (2.) The tappá of British Singrauli in the Pargana of Singrauli.
  - (3.) The tappás of Phulwá, Dudhi and Barhá in the Pargana of Bichipár.
  - (4.) The portion lying to the South of the Kaimor Range.
- V.—The Family Domains of the Mahárájá of Benares comprising the following parganas :—Bhadohi and Kheyra Mangror in the Mirzapur District. Kaswá Rájá in the Benares District.
- VI.—The tract of country known as Jaunsar Báwar in the Dehra Dún District.

## PART V.

## SCHEDULED DISTRICTS, PANJÁB.

The Districts of Hazára, Pesháwar, Kohát, Bannu, Dera Ismaíl Khán, Dera Gházi Khán, Labaul and Spiti.

## SIXTH SCHEDULE.—(Concluded.)

## PART VI.

## SCHEDULED DISTRICTS, CENTRAL PROVINCES.

*Chhattisgarh Zamindaris.*

1. Khariár.	13. Mátn.
2. Bindrá Nowágarh.	14. Uprorá.
3. Sahezpúr.	15. Kendá.
4. Gándai.	16. Láphá.
5. Silheti.	17. Chhúrí.
6. Barbaspúr.	18. Korbá.
7. Thákurtolá.	19. Chapá.
8. Lobárá.	20. Borá Sambhar.
9. Gondardehí.	21. Phúljar.
10. Fingeswar.	22. Kolábirá.
11. Pándariá.	23. Rámpúr.
12. Pendrá.	

*Chándá Zamindaris.*

1. Ahíri.	11. Murangáon.
2. Ámbágarh Chaukí.	12. Pánábáras.
3. Áundhi.	13. Palasgarh.
4. Dhanorá.	14. Rángi.
5. Dúdhmalá.	15. Sirsundi.
6. Gewardá.	16. Sonsari.
7. Jhárápáprá.	17. Chándálá.
8. Khutgáon.	18. Gílgáon.
9. Koráchá.	19. Páwi Mutándá.
10. Kotgal.	20. Pategáon.

*Chhindwára Jágirdaris.*

1. Haraí.	7. Pachmarhí.
2. Chháter.	8. Partábgarh.
3. Gorakbghát.	9. Almod.
4. Gorpául.	10. Sonpúr.
5. Baktágarh.	11. Bariám Pagára.
6. Bardágarh.	

## PART VII.

The Chief Commissionership of Coorg.

## PART VIII.

The Chief Commissionership of the Andaman and Nicobar Islands.

## PART IX.

The Chief Commissionership of Ajmer and Mairwára.

## PART X.

The Chief Commissionership of Assam.

## PART XI.

The Hill Tracts of Arakan.

## PART XII.

The Pargana of Mánpur.

## PART XIII.

The Cantonment of Morar.

## SEVENTH SCHEDULE.

## ENACTMENTS REPEALED.

(See section 9.)

## PART I.—ACTS.

Number and Year.	Subject or Title.	Extent of Repeal.
X of 1838	Kumaon ... ..	The whole.
VIII of 1839	Jágir Chinchni ... ..	The whole.
VI of 1842	An Act for annexing to the British Territory certain villages belonging to the late Nepanee Jagheer, and acquisitions by exchange from the Sattara State, and for bringing under the Regulations an Inam village of Pergunnah Yelloor.	The whole.
X of 1848	An Act for annexing the lapsed State of Mandvee to the Presidency of Bombay.	The whole Act except the title and the following words (namely) "suits on the following subjects shall not be cognizable by the Civil Courts within the said lapsed State of Mandvee," and clause fourth and the first eleven words of clause fifth of section two.
VIII of 1853	An Act for bringing the lapsed State of Colaba under the laws of the Presidency of Bombay.	The whole Act except the title and the following words (namely) "suits on the following subjects shall not be cognizable by the Civil Courts within the said lapsed State of Colaba," and clause fourth and the first eleven words of clause fifth of section two.
XIII of 1853	An Act for bringing under the operation of the Regulations and Acts in force in the Presidency of Bombay certain territories subordinate to that Presidency.	The whole.
XVII of 1853	An Act to repeal Regulation VII of 1816, and to declare the law which is to be in force in the tract of land granted to Maharajah Imrit Rao.	So much as has not been repealed.
XXIII of 1858	An Act for bringing the District of Kurnool under the Laws of the Presidency of Fort St. George.	The whole.
XXXII of 1858	An Act for bringing the Fort of Tanjore and the adjacent territory under the Laws of the Presidency of Fort St. George.	So much as has not been repealed.

## SEVENTH SCHEDULE.—(Continued.)

## ENACTMENTS REPEALED.—(Continued.)

## PART I.—ACTS.—(Concluded.)

Number and Year.	Subject or Title.	Extent of Repeal.
XII of 1863 ...	An Act to bring the Pergunnahs of Mahoba and Jeitpore, in the District of Humeerpore, under the operation of the General Regulations.	So much as has not been repealed.
I of 1864 ...	An Act to bring the Jagheers of Poorwah and Khuddee, in the District of Banda, under the operation of the General Regulations.	The whole.
XXIV of 1864 ...	An Act relating to the administration of certain districts under the Government of the Lieutenant-Governor of the North-Western Provinces.	So much as has not been repealed.
I of 1865 ...	An Act to authorize the extension of certain Acts and Regulations to Territories not subject to the General Regulations.	The whole.
XXII of 1868 ...	An Act to bring Mauza Kheria, in the District of Agra, under the operation of the General Regulations.	The whole.

*Bombay Acts.*

Number and Year.	Title or abbreviated Title.	Extent of Repeal.
III of 1863 ...	An Act for bringing under the Regulations and Acts of the Presidency of Bombay the territories of Sattara, &c.	Sections five, six and seven, and schedule C.
IX of 1866 ...	An Act to authorize the extension of certain Regulations and Acts to Territories in the Bombay Presidency not subject to the General Regulations.	The whole.
X of 1866 ...	An Act to shorten the language used in Acts of the Governor of Bombay in Council and to make certain provisions regarding thereto.	Section five.

## PART II.—REGULATIONS.

## (a).—Bengal Code.

Number and Year.	Title or abbreviated Title.	Extent of Repeal.
XLVIII of 1795 ...	A Regulation for prohibiting Covenanted Civil Servants of the Company employed in the administration of justice, or the collection of the public revenue, in the Province of Benares, from lending money to talookdars, &c.	So much as has not been repealed.



## SEVENTH SCHEDULE.—(Continued.)

## ENACTMENTS REPEALED.—(Continued.)

## PART II.—REGULATIONS.—(Continued.)

## (a).—Bengal Code.—(Concluded.)

Number and Year.	Title or abbreviated Title.	Extent of Repeal.
XIX of 1803 ...	A Regulation for prohibiting Covenanted Civil Servants of the Company employed in the administration of justice, or the collection of the public revenue, in the provinces ceded by the Nawab Vizier to the Hon'ble the English East India Company, from lending money to zemindars, &c.	The whole.
XXXIV of 1803 ...	A Regulation for determining the Rate of Interest on Money in the Provinces ceded by the Nawab Vizier to the Hon'ble the English East India Company.	So much as has not been repealed.
XII of 1806 ...	A Regulation for annexing the Pergunnahs of Sonk, Sonsa and Sahar, situated on the right bank of the River Jumna, to the jurisdiction of the Zillah of Agra, &c.	The whole.
XIV of 1806 ...	A Regulation for abolishing the Court of Dewanny Adawlut of the Zillah of the Northern Division of Saharunpore.	The whole.
XVIII of 1816 ...	A Regulation for annexing to the Zillah of Allahabad the Pergunnah of Hendya, &c.	So much as has not been repealed.
II of 1818 ...	A Regulation for annexing to the Zillah of Bundelcund the Elakeh of Khundeh, &c.	So much as has not been repealed.
IV of 1818 ...	A Regulation for re-establishing the Dewanny Adawlut of the Northern Division of Saharunpore.	The whole.
V of 1824 ...	A Regulation for extending the operation of Regulation VI, 1823, to the Provinces of Orissa, Behar and Benares, and to the Ceded and Conquered Provinces.	The whole.
XXI of 1825 ...	A Regulation for annexing to the Jurisdiction of the Commissioner of Kumaon the tract of country called the Deyra Doon, &c.	The whole.
V of 1826 ...	A Regulation for annexing to the Zillah of Agra the Pergunnah of Goberdhun.	So much as has not been repealed.
VI of 1826 ...	A Regulation for constituting the Jurisdiction of the Joint Magistrate, stationed at Futtehpoore, a distinct Zillah.	The whole.
V of 1829 ...	A Regulation for rescinding part of Regulation X, 1817, and parts of Regulation XXI, 1825.	The whole.
VIII of 1832 ...	A Regulation for rescinding Regulation XIV, 1814.	So much as has not been repealed.
V of 1833 ...	A Regulation for forming the Jurisdiction of the City of Dacca and the Zillah of Dacca Jelalpoore into one District.	So much as has not been repealed.

SEVENTH SCHEDULE.—(*Concluded.*)

ENACTMENTS REPEALED.—(*Concluded.*)

PART II.—REGULATIONS.—(*Concluded.*)

(*b.*)—*Bombay Code.*

Number and Year.	Title.	Extent of Repeal.
X of 1830 ...	A Regulation for bringing under the Operation of the Regulations certain villages in the Collectorship of Khandesh.	The whole.
XIV of 1830 ..	A Regulation for bringing under the Operation of the Regulations such Portion of the Bombay Territory on the Mahabulshwur Hills as has been ceded to the Hon'ble Company by His Highness the Rajah of Sattara.	The whole.
II of 1834 ...	A Regulation for bringing under the Operation of the Regulations certain villages which have been ceded to the Hon'ble Company by Angria Sirkeil in exchange for other villages.	The whole.

ACT XVI OF 1874.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(*Received the assent of the Governor General on the 16th December 1874.*)

*An Act for the repeal of certain Obsolete Enactments.*

WHEREAS it is expedient that the enactments mentioned in the schedule to this Act, which have ceased to be in force otherwise than by express and specific repeal, or have by lapse of time and change of circumstances become unnecessary, or which merely repeal prior enactments, should be expressly and specifically repealed; It is hereby enacted as follows:—

1. The enactments described in the schedule annexed to this Act are hereby repealed to the extent mentioned in the third column of the same schedule:

Provided that the repeal by this Act of any enactment shall not affect any Statute, Act or Regulation in which such enactment has been applied, incorporated, or referred to:

And this Act shall not affect the validity or invalidity of anything already done or suffered, or any indemnity already granted, or any right or title already acquired or accrued, or any remedy or proceeding in respect thereof, or the proof of any past act or thing:

Nor shall this Act affect any principle or rule of law, or established jurisdiction, form or course of pleading, practice or procedure, or existing usage, custom, privilege, restriction, exemption, office or appointment, notwithstanding that the same respectively may have been in any manner affirmed, recognised, or derived, by, in, or from any enactment hereby repealed:

Nor shall this Act provide or restore any jurisdiction, office, custom, privilege, restriction, exemption, usage or practice not now existing or in force.

2. This Act may be cited as "The Repealing Act, 1874;" it extends to the whole of British India; and it shall come into force on the passing thereof.

Short title.

Commencement.

## SCHEDULE.

## PART I.—ACTS OF THE GOVERNOR GENERAL IN COUNCIL.

Number and Year.	Subject.	Extent of Repeal.
VIII of 1835 ...	Decrees for Rent ...	So much as has not been repealed.
X of 1836 ...	Indigo Contracts ...	In sections two, three and four, the first six words.
XX of 1836 ...	Quashing Batwáras ...	In section two, the words and figures "And it is hereby enacted that from the said first day of October 1836." In section three, the words "And it is hereby enacted that."
XXI of 1836 ...	Creation of Zilas ...	The words and figures "It is hereby enacted, that from the first day of October 1836."
XXVI of 1836 ...	Governor General's Camp-Police.	In section one, the first five words; and in sections two, three and four, the first six words.
III of 1837 ...	Bengal Sadr Courts ...	So much as has not been repealed.
IV of 1837 ...	Power to acquire land ...	In section one, the first twelve words, and in section two, the first six words.
VI of 1837 ...	Cuttack Málguzáras ...	The first five words.
XXII of 1837 ...	Offences against Revenue Regulations (Madras).	So much as has not been repealed.
XXIX of 1837 ...	Power to prescribe language to be used in judicial proceedings.	The whole Act.
XXXVI of 1837 ...	Criminal jurisdiction (Madras).	In section two, the first six words, and the words "and that."
VII of 1838 ...	Bengal judiciary ...	So much as has not been repealed.
XII of 1838 ...	Treasure Trove (Madras)	The words and figures "It is hereby enacted, that from the first day of July 1838."
XVI of 1838 ...	Bombay judiciary ...	Section six; and in each of sections two, three, four and five, the first six words.
XVIII of 1838 ...	Sureties (Bombay) ...	In section one, the first twelve words. In sections two, three, four, five and six, the words "And it is hereby enacted, that."
XIX of 1838 ...	Coasting vessels (Bombay)	In sections two to fourteen (both inclusive), the words "And it is hereby enacted, that;" in section two, the words and figures "from the said first day of November 1838;" and in section fifteen, the words and figures "And it is hereby enacted, that from the first day of November 1838."
XXII of 1838 ...	Bengal judiciary ...	So much as has not been repealed.

## SCHEDULE.—(Continued.)

## PART I.—ACTS OF THE GOVERNOR GENERAL IN COUNCIL.—(Continued.)

Number and Year.	Subject.	Extent of Repeal.
XXIX of 1838 ...	Salt Department (Bengal)	In each of sections two to thirteen, and seventeen to twenty-two (both inclusive), twenty-four, twenty-five, twenty-six, thirty and thirty-three, the words "And it is hereby enacted, that."
IX of 1839 ...	Pauper suits ...	So much as has not been repealed.
XX of 1839 ...	Levy of hakks, &c. (Bombay).	In section one, the first seven words; in sections two and three, the first six words.
XXIV of 1839 ...	Ganjam and Vizagapatam	In section two, the words and figures "And it is hereby enacted, that from and after the said first day of December 1839." In sections three, four, five, six, seven and eight, the first six words.
VI of 1840 ...	Bills of Exchange ...	In section one, the words and figures "from and after the first day of May, in the year of our Lord 1840." In section two, the first twelve words. In each of the remaining sections, the first six words.
IX of 1840 ...	Damages, &c. ...	In section two, the first six words.
X of 1840 ...	Temple of Jagannáth ...	In sections two and three, the first six words.
XV of 1840 ...	Agents of Foreign Sovereigns (Bombay).	So far as relates to Bombay Regulation XV of 1827.
XVII of 1840 ...	Salt laws (Madras) ...	The words and figures "in modification of Regulation V of 1831 of the Madras Code."
XIX of 1840 ...	Pauper appeals ...	So much as has not been repealed.
XXIII of 1840 ...	Execution of process ...	In sections two, three, four, six and seven, the first six words; in section five, the first five words; and the word "that" where it first occurs.
I of 1841 ...	Collection of Revenue ..	The whole Act.
VII of 1841 ...	Examination of absent witnesses.	So much as has not been repealed.
VIII of 1841 ...	Interpleader ...	In sections two, three, four, five and seven, the first six words.
X of 1841 ...	Registry of Ships ...	In sections two, three, four, five, six, nine, ten, eleven, twelve, fourteen, fifteen, sixteen, seventeen, eighteen, nineteen, twenty-one, twenty-three, twenty-four and twenty-five, the first six words. In section eight, the first fourteen words. In section twenty-six, the first eight words.

## SCHEDULE.—(Continued.)

## PART I.—ACTS OF THE GOVERNOR GENERAL IN COUNCIL.—(Continued.)

Number and Year.	Subject.	Extent of Repeal.
XI of 1841 ...	Military Courts of Requests.	In sections three to seventeen (both inclusive), the first six words. In section five, the words and figures "of the East India Company, under Act No. VII of 1841," and "pursuant to the provisions of Act No. VII of 1841." In section fifteen, the words and figures "(for which purpose the provisions of Act No. II of 1840 shall be applicable)."
XII of 1841 ...	Sales of land for arrears of Revenue.	In section two, the first six words, and the words and figures "which shall fall due after the date specified in section XXXV of this Act."
XVIII of 1841 ...	Arms and Ammunition ...	In section three, the first six words.
XIX of 1841 ...	Curators ...	In sections two to nineteen (both inclusive), the first six words.
XXIV of 1841 ...	Illusory appointments, &c.	In section two, the first six words, and the words "from the first day of January next." In section four, the first forty-three words, and the words "from the first day of January next." In section five, the first six words.
XXVI of 1841 ...	Extension of parts of 3 & 4 Wm. IV., C. 42.	In sections three, four, seven and nine, the first six words. In section eight, the first five words, and the word "that."
XXVII of 1841 ...	Unclaimed dividends ...	In section two, the first six words.
IV of 1842 ...	Boat regulations (Madras)	In section one, the first fourteen words. In sections two, three, four, six to nineteen (both inclusive), twenty-one and twenty-four, the first six words. Section twenty. In sections twenty-two and twenty-three, the first seven words.
XII of 1842 ...	Military Bázars ...	Section two, so far as it relates to Act No. XXVIII of 1841, and the first six words.
XIII of 1842 ...	Collection of Revenue (Bombay).	In section two, the first six words, and the words "that it." In sections three to eight (both inclusive), the first six words.
II of 1843 ...	Appeals ...	The whole Act.
V of 1843 ...	Slavery ...	In section one, the first seven words. In sections two and three, the first eight words. In section four, the first six words.
XI of 1843 ...	Hereditary officers (Bombay).	In section two, the word "And." In sections three, four, five and six, eight, ten to fifteen (both inclusive), the first six words. In sections seven and nine, the first seven words.

SCHEDULE.—(Continued.)

PART I.—ACTS OF THE GOVERNOR GENERAL IN COUNCIL.—(Continued.)

Number and Year.	Subject.	Extent of Repeal.
XII of 1843 ...	Judicial language ...	The whole Act.
VI of 1844 ...	Customs Duties (Madras)	Section six. In sections eight to fifteen (both inclusive), the first six words.
XVI of 1844 ...	Salt Duties (Bombay) ...	The preamble. Section six down to and including the words "weight and that," and the word "Company's."
VIII of 1845 ...	Security for costs ...	The whole Act.
XXI of 1845 ...	Meriah sacrifices ...	The whole Act.
I of 1846 ...	Pleaders ...	Sections one, two and three; and in sections four and six to thirteen (both inclusive), the first six words. In section five, the words "nevertheless, and it is hereby enacted."
III of 1846 ...	Boundary marks (Bombay).	In sections five and six, the first six words.
XI of 1846 ...	Khândesh and Ahmadnagar.	In sections two, three, four and five, the first six words.
IX of 1847 ...	Assessment of lands gained by alluvion or dereliction	In sections two, three, five, six and nine, the first six words. Section four, down to and including the words "and that."
XX of 1847 ...	Copyright ...	In section three, the first six words, and the words "and that." In section five, the first eleven words, and the words "and that." In section six, the first five words, and the words "and that." In section seven, the first five words. In sections eight and nine, the first twelve words. In sections ten and eleven, the first six words. In sections twelve to sixteen (both inclusive), the first five words.
XIV of 1848 ...	Commission ...	In section one, the first six words.
IX of 1849 ...	Police Magistrates (Madras)	So much as has not been repealed.
IX of 1850 ...	Presidency Small Cause Courts.	In section six, the words and figures "within the meaning of Act VII, 1841, section VI."
XIX of 1850 ...	Apprentices ...	In sections five and twenty-three, the words "the East" and "Company."
XXXIII of 1850 ...	Sales of Patni tenures ...	In section one, the first six words.
XXXVII of 1850 ...	Inquiries into behaviour of public servants.	In section eight, the words and figures "by Act XXX, 1841."

## SCHEDULE.—(Continued.)

## PART I.—ACTS OF THE GOVERNOR GENERAL IN COUNCIL.—(Continued.)

Number and Year.	Subject.	Extent of Repeal.
III of 1852 ...	Spirituous liquors (Bombay).	Section nine.
VII of 1852 ...	Salt Revenue (Madras) ...	In section four, the words and figures "in the manner prescribed by Clause 2, Section XXXIII, Regulation XI of 1816, of the Madras Code."
XI of 1852 ...	Title to rent-free estates (Bombay).	Section one, from and including the words "and no order" to the end.
XXIII of 1852 ...	Mitigation of Fines ...	The whole Act.
XXX of 1852 ...	Naturalization ...	Section nine.
XVIII of 1853 ...	Sale of Spirits in Cantonments.	In section sixteen, the words and figures "shall not come into operation before the 1st day of January 1854, and."
XVIII of 1854 ...	Railways ...	In the preamble, the words "under the superintendence and control of the East India Company," and "in any part of the territories in the possession and under the Government of the said Company." In section two, the words "or of the East India Company." Sections thirty-two and thirty-three.
XXXI of 1854 ...	Fines and recoveries: tenants in tail and married women	In the title and preamble, the words "to abolish real actions and also fines and common recoveries, and." In section thirteen, the words "the East" and "Company." Section nineteen.
XXXIII of 1854 ...	Judicial language ...	The whole Act.
XIV of 1855 ...	Military Bázars, Madras...	The whole Act.
XVIII of 1855 ...	Pardons and Reprieves ...	The whole Act.
XXIII of 1855 ...	Administration of mortgaged estates.	In section one, the first eight words.
XXIV of 1855 ...	Penal Servitude ...	In section one, the first six words, and the words "the East" and "Company."
XXXII of 1855 ...	Embankments ...	Section nineteen, and the last seven words of section eighteen.
XI of 1856 ...	European deserters ...	In section two, the words "or for any of the Settlements of Prince of Wales Island, Singapore and Malacca." In section four, the words and figures "Act No. XIV of 1849, or."

SCHEDULE.—(Continued.)

PART I.—ACTS OF THE GOVERNOR GENERAL IN COUNCIL.—(Continued.)

Number and Year.	Subject.	Extent of Repeal.
XIII of 1856 ...	Presidency Towns Police	In the title and preamble, the words "and the several stations of the Settlement of Prince of Wales Island, Singapore and Malacca." In section two, the definitions of "station" and "Her Majesty's Supreme Court of Judicature." The expressions "and stations," "or station," "or stations" wherever they occur in the Act. Section nine. In section twenty-two, the words "and within the said Settlement." In sections forty-seven, forty-eight and seventy-four, the words "or the East India Company." Section fifty-three, from and including the words "or of any" down to and including "1851." Section one hundred and eighteen.
XIV of 1856 ...	Improvement of Presidency Towns.	So much as has not been repealed.
XIX of 1856 ...	Emigration ...	So much as has not been repealed.
XXV of 1856 ...	Municipal rates ...	The whole Act.
IV of 1857 ...	Tobacco (Bombay) ...	In section four, the words and figures "within the meaning of Act XXV of 1836."
XXI of 1857 ...	Suburbs of Calcutta ...	In the title, the words "of the Suburbs of Calcutta and;" in the preamble, the words "the Suburbs of the said town of Calcutta and of," and the words "Suburbs and," in each of the places where they occur. In section one, the words "Suburbs or." In section four, the words "or the East India Company." In the schedule, the words "Suburbs of Calcutta and," and the Part headed "SUBURBS OF CALCUTTA."
XXIX of 1857 ...	Land Customs (Bombay)	In section four, the words "as above provided." In section five, the words and figures "and the provisions of sections IV, V and VI of the said Act I of 1852 shall be applicable to the persons so appointed."
I of 1858 ...	Forced labour (Madras) ...	In section six, the words "or District" in each of the places where they occur, and so much of that section as relates to Madras Regulation VII of 1816.
XXXIV of 1858 ...	Lunacy (Charter Courts)	Section thirty-one, from and including "and shall" down to the end of the section.
XXXVI of 1858 ...	Lunatic Asylums ...	In section six, the words "and the Stations of the Straits' Settlement," and "and Stations." In section seven, the words "or in any Station of the Straits' Settlement."



## SCHEDULE.—(Continued.)

## PART I.—ACTS OF THE GOVERNOR GENERAL IN COUNCIL.—(Continued.)

Number and Year.	Subject.	Extent of Repeal.
		In section seventeen, the words and figures "or to affect the provisions of Act IV of 1849, entitled ' <i>An Act for the safe custody of Criminal Lunatics.</i> '"
XXXVII of 1858 ...	Nawáb of the Carnatic ...	Section three.
I of 1859 ...	Merchant Seamen ...	In section one hundred and twelve, the last eleven words.
III of 1859 ...	Cantonment Joint Magistrates.	Section eleven.
VII of 1859 ...	Customs ...	So much as has not been repealed.
XIII of 1859 ...	Masters and Workmen ...	In section one, the words "or in any Station of the Settlement of Prince of Wales Island, Singapore and Malacca."
XVIII of 1859 ...	Punishment of Offences ...	Section one.
XXIII of 1859 ...	Land Customs ...	The whole Act.
XXIV of 1859 ...	Police (Madras Presidency).	Section twelve. In section fifty-two, the words and figures "in manner provided by Act II of 1839."
VIII of 1860 ...	Telegraphs ...	In section eighteen, the words "or for the Settlement of Prince of Wales Island, Singapore and Malacca."
XVI of 1860 ...	Presidency Municipalities	The whole Act.
XXI of 1860 ...	Registration of Societies	In sections one and eighteen, the words and figures "under Act XIX of 1857."
XXII of 1860 ...	Chittagong ...	Section seven.
XXIII of 1860 ...	Abkárí (Bengal) ...	In section one, the words and figures "On and after the 21st January 1860;" and in section four, the word "said."
XXVII of 1860 ...	Collections of debts on successions.	Section one.
XXXI of 1860 ...	Arms ...	In section twenty-five, the words "Magistrate, Deputy Magistrate, or Assistant to a Magistrate, or Police Officer, or for any other." Sections thirty-seven, thirty-eight and thirty-nine. In section forty-one, the words "or Station."
XLVIII of 1860 ...	Presidency Towns Police	In the title, the words " <i>and the several Stations of the Settlement of Prince of Wales Island, Singapore and Malacca.</i> " In section four, the words "or in any of the Stations of the Straits Settlement," and "or of the Courts of Judicature of such Stations," and "or in the Court of Judicature."

SCHEDULE.—(Continued.)

PART I.—ACTS OF THE GOVERNOR GENERAL IN COUNCIL.—(Continued.)

Number and Year.	Subject.	Extent of Repeal.
V of 1861 ...	Police ...	Section eleven.
XVII of 1861 ...	Customs Duties (North-Western Provinces).	In section one, the words and figures "From and after the ninth day of March 1861." Section three.
IV of 1863 ...	Treaty with Burma ...	Section four.
XIX of 1863 ...	Partition ...	In section two, the words "after the passing of this Act."
XX of 1863 ...	Religious Endowments ...	In the preamble, the words and figures "and whereas it is expedient for that purpose to repeal so much of Regulation XIX, 1810, of the Bengal Code, and Regulation VII, 1817, of the Madras Code, as relate to endowments for the support of mosques, Hindoo Temples, or other religious purposes." In section twenty-two, the words "after the passing of this Act."
VI of 1864 ...	Whipping ...	Sections nine and ten.
VII of 1864 ...	Salt (Central Provinces)...	Section four.
XIX of 1864 ...	Mirzāpur ...	Section four.
XXIV of 1865 ...	Warrants of Attorney ...	So much as has not been repealed.
XXX of 1865 ...	Madras Irrigation Company.	Section two.
XXI of 1866 ...	Native Converts' remarriage.	Section two. In section thirty-four, the words and figures "or in Acts Nos. XXV of 1864 and V of 1865," and from and including the words "and no Clergyman" to the end of the section; and section thirty-five, from and including the words "But it may" to the end of the section.
XXV of 1866 ...	Transfer to Government of certain securities.	In the title and preamble, the words "and in the Supreme Court of the Straits Settlement." In section one, the words "or Supreme Court of the Straits Settlement." So much of section two as has not been repealed. In section four, the words "or Supreme Court, as the case may be," and the words "and, in the case of proceeds transferred and paid under the second section of this Act by order of the Supreme Court of the Straits Settlement, be established to the satisfaction of the same Court."
XXVII of 1866 ...	Trustees and Mortgagees	In section two, the words " <i>to abolish real actions and also fines and common recoveries, and.</i> " Section fifty-five.

## SCHEDULE.—(Continued.)

## PART I.—ACTS OF THE GOVERNOR GENERAL IN COUNCIL.—(Continued.)

Number and Year.	Subject.	Extent of Repeal.
XXVIII of 1866 ...	Trustees and Mortgagees' powers.	In section one, the words "and the Supreme Court of Judicature of the Settlement of Prince of Wales Island, Singapore and Malacca." Section forty-seven.
III of 1867 ...	Public Gambling ...	Section eighteen.
XIII of 1867 ...	Port-dues (Maulmain and Bassein).	In section three, the first eight words.
XIV of 1867 ...	Pándharí (Central Provinces).	Section seven.
XVIII of 1867 ...	Jhánsí Civil Courts ...	In section three, the words "from the date of this Act coming into operation." Section twenty-six.
XIX of 1867 ...	Darjeeling ...	Section one.
XXIII of 1867 ...	Murderous Outrages (Panjáb).	Section three.
XVIII of 1868 ...	Nilgiri Hills ...	Section four.
XXV of 1868 ...	Coorg Courts ...	The second paragraph of section one. Section twenty-five.
XL of 1869 ...	Land Customs (Madras and Bombay).	Section three. In section four, the words and figures "schedules to the said Act No. XVII of 1867, or any other."
XV of 1869 ...	Prisoners' testimony ...	In sections seven and eight, the words and figures "appointed under Act No. XXI of 1863," and "appointed under the said Act No. XXI of 1863."
XVI of 1869 ...	Bhután Dvára ...	Section four.
XVIII of 1869 ...	Stamps ...	In section seventeen, the words and figures "Act No. XXVI of 1867, section six, or under," and "other." In section forty-five, the words and figures "or Act No. X of 1862 (to consolidate and amend the law relating to stamp duties)."
XX of 1869 ...	Volunteers ...	In section twenty-six, the words and figures "or the said Act No. XXIII of 1857."
V of 1870 ...	Costs of certain petitions	In the preamble, the words "and in the Supreme Court of the Straits Settlement, and the proceeds of certain estates in the charge of the Administrator General of Bengal."
XXII of 1870 ...	European British subjects	Section five.
XXVI of 1870 ...	Prisons ...	The third paragraph of section one.

THE SECOND SCHEDULE.

(See section 2.)

Number and Year.	Title.
XI of 1846	... An Act for the exemption of certain Territory in the Province of Candeish and the Zillah Ahmednuggur from the operation of the general Regulations.
XXXVII of 1855	... An Act to remove from the operation of the general Laws and Regulations certain Districts inhabited by Sonthals and others, and to place the same under the superintendence of an Officer to be specially appointed for that purpose.
X of 1857	... An Act to amend Act XXXVII of 1855.
XXII of 1860	... An Act to remove certain tracts on the eastern border of the Chittagong District from the jurisdiction of the tribunals established under the general Regulations and Acts.
XIV of 1861	... An Act to remove certain tracts of Country in the Rohilcund Division from the jurisdiction of the tribunals established under the general Regulations and Acts.
XIX of 1864	... An Act to remove certain tracts of Country in the District of Mirzapore from the jurisdiction of the local Courts.
IV of 1868	... An Act to exempt certain villages in the Bombay Presidency from the operation of the Regulations and Acts in force in that Presidency.
XXII of 1869	... An Act to remove the Gáro Hills from the jurisdiction of the tribunals established under the general Regulations and Acts and for other purposes.
BENGAL ACT.	
IV of 1863	... An Act to amend Act XXII of 1860 (to remove certain tracts on the eastern border of the Chittagong District from the jurisdiction of the tribunals established under the general Regulations and Acts).

ACT XV OF 1874.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor General on the 8th December 1874.)

*An Act for declaring the local extent of certain Enactments, and for other purposes.*

WHEREAS it is expedient to declare the local extent of certain Acts passed by the Governor General of India in Council, the Legislative Council of India, and the Council of the Governor General of India assembled for the purposes of making Laws and Regulations; And whereas it is also expedient to consolidate the laws relating to the local extent of certain Acts and Regulations in the Presidencies of Fort St. George and Bombay, and in the Lower and the North-Western Provinces of the Presidency of Fort William in Bengal; It is hereby declared and enacted as follows:—

Short title.

1. This Act may be called "The Laws Local Extent Act, 1874."

Interpretation-clause.

2. In this Act the expression "Scheduled Districts" means the territories mentioned in the sixth schedule hereto annexed.

3. The Acts mentioned in the first schedule hereto annexed are now in force throughout the whole of British India, except the Scheduled Districts.

4. The enactments mentioned in the second schedule hereto annexed are now in force throughout the whole of the territories now subject to the government of the Governor of Fort St. George in Council, except the Scheduled Districts subject to such government.

5. The enactments mentioned in the third schedule hereto annexed are now in force throughout the whole of the territories now subject to the government of the Governor of Bombay in Council, except the Scheduled Districts subject to such government.

6. The enactments mentioned in the fourth schedule hereto annexed are now in force throughout the whole of the territories now subject to the government of the Lieutenant-Governor of Bengal, except the Scheduled Districts subject to such government.

7. The enactments mentioned in the fifth schedule hereto annexed are now in force throughout the whole of the territories now subject to the government of the Lieutenant-Governor of the North-Western Provinces of the Presidency of Fort William, except the Scheduled Districts subject to such government.

8. Nothing herein contained shall—

(a) bar the power of the Governor General in Council or the Local Government, under any law for the time being in force, to extend to any place any Act mentioned in the said first schedule ;

(b) extend any Act empowering the Local Government to extend the same or any part thereof, or affect in any manner the exercise of such power ;

(c) affect the operation of any Act or Regulation heretofore extended to or declared to be in force in any of the Scheduled Districts ;

(d) revive any enactment which has been repealed either generally or with reference to some special subject ;

(e) extend Madras Regulation VII of 1832 to any place in which Madras Act I of 1866 is in force ;

(f) extend Act No. XVII of 1840, or Act No. VII of 1852, or Madras Regulation I of 1803, or Madras Regulation II of 1807, to any place in which Madras Act No. VI of 1871 is in force ;

(g) extend Act No. IX of 1861 to any part of the territories subject to the government of the Governor of Bombay in Council ;

(h) extend Act No. XI of 1841, or No. XII of 1842, to any place in which Bombay Act No. III of 1867 is in force ;

(i) extend to the Villages mentioned in the schedule to Act No. IV of 1868 any law not now in force therein ;

(j) extend to any of the Towns of Calcutta, Madras and Bombay any law not now in force therein ;

(k) affect the operation of any enactment not mentioned in any of the schedules hereto annexed.

9. The enactments mentioned in the seventh schedule hereto annexed shall be repealed to the extent specified in the third column thereof.

### FIRST SCHEDULE.

(See section 3.)

#### ACTS OF THE SUPREME COUNCIL.

Year and Number.	Subject.
1836, XXVI ...	Governor General's Camp Police.
1837, IV ...	Power to acquire land.

FIRST SCHEDULE.—(Continued.)

ACTS OF THE SUPREME COUNCIL.—(Continued.)

Year and Number.			Subject.
1838,	XXV ...	...	Wills executed before the 1st January 1866.
1839,	XXIX ...	...	Dower, when marriage was contracted before 1st January 1866.
"	XXX ...	...	Inheritance, where descent took place before 1st January 1866.
"	XXXII ...	...	Interest.
1840,	VI ...	...	Bills of Exchange.
1841,	X ...	...	Registration of ships.
"	XI ...	...	Military Courts of Requests.
"	XVIII ...	...	Exportation of Military Stores.
"	XIX ...	...	Curators in cases of successions.
1842,	IX ...	...	Lease and Release.
"	XII ...	...	Military Bázars.
1843,	V ...	...	Slavery.
1847,	XX ...	...	Copyright.
1850,	V ...	...	Coasting Trade.
"	XI ...	...	Navigation Laws.
"	XII ...	...	Default of Public Accountants.
"	XVIII ...	...	Protection of Judicial Officers.
"	XIX ...	...	Binding of Apprentices.
"	XXI ...	...	Non-forfeiture of rights by loss of Caste.
"	XXXIV ...	...	State Prisoners.
"	XXXVII ...	...	Inquiries into the behaviour of public servants.
1852,	XXX ...	...	Naturalization of Aliens.
"	XXXIII ...	...	Enforcement of Judgments of Charter Courts and Military Courts of Requests.
1853,	II ...	...	Burdens on land.
1854,	XVIII ...	...	Railways.
"	XXXI ...	...	Barring entails: Conveyances by married women.
1855,	XI ...	...	Mesne profits and improvements.
"	XII ...	...	Executors and Administrators.
"	XIII ...	...	Compensation for loss occasioned by death caused by actionable wrong.
"	XXIII ...	...	Administration of mortgaged estates in cases of descents occurring or devises made before the 1st January 1866.
"	XXIV ...	...	Penal servitude.
"	XXVIII ...	...	Interest.
1856,	IX ...	...	Bills of Lading.
"	XI ...	...	Desertion by European Soldiers.
"	XV ...	...	Marriage of Hindu Widows.
1857,	XI ...	...	Offences against the State.
"	XXV ...	...	Forfeiture by Mutineers.
1858,	III ...	...	State Prisoners.
"	XXXV ...	...	Estates of Lunatics not subject to jurisdiction of Supreme Courts.
"	XXXVI ...	...	Lunatic Asylums.
1859,	I ...	...	Merchant Seamen.
"	III ...	...	Cantonment Joint Magistrates.
"	VIII ...	...	Civil Procedure.
"	IX ...	...	Sections 16, 17, 18 and 20—Forfeitures.
"	XIV (sec. 15) ...	...	Suits to recover possession of land.
"	XV ...	...	Patents.
1860,	XXI ...	...	Registration of Societies.
"	XXVII ...	...	Collection of debts on Successions.
1861,	IX ...	...	Minors.
"	XXIII ...	...	Amending Civil Procedure Code.
1862,	III ...	...	Government Seal.
1863,	VI ...	...	Sea Customs.

## FIRST SCHEDULE.—(Concluded).

## ACTS OF THE SUPREME COUNCIL.—(Concluded).

Year and Number.		Subject.
1863,	XVI ...	Excise Duty payable on Spirits used in Arts and Manufactures.
"	XXIII ...	Claims to waste-lands.
"	XXXI ...	Gazette of India.
1864,	III ...	Foreigners.
"	VI ...	Whipping.
1865,	III ...	Common Carriers.
"	XI ...	Mofussil Courts of Small Causes.
"	XV ...	Marriage and Divorce among Parsees.
"	XXI ...	Intestate succession among Parsees.
1866,	V ...	Bills of Exchange, Commercial Law.
"	X ...	Companies.
"	XXI ...	Dissolution of Marriages of Native Converts.
"	XXVIII ...	Trustees and Mortgagees' Powers.
1867,	X ...	References by Courts of Small Causes in the Mofussil.
"	XXV ...	Printing Presses, &c.
1868,	X ...	Amending Consolidated Customs Act.
1869,	XV ...	Evidence of Prisoners.
1870,	I ...	Quarantine.

## SECOND SCHEDULE.

(See section 4.)

(a).—MADRAS REGULATIONS.

Year and Number.		Subject.
1802,	III (ss. 1, 11, part of s. 16 only).	Procedure of Civil Courts.
"	V (s. 30) ...	Sadr Adalat to act according to justice, &c.
"	XIII ...	Records of Courts.
"	XIX (s. 2) ...	Covenanted Civil Servants forbidden to lend.
"	XXV ...	Settlement of Land-revenue.
"	XXVI (ss. 1, 2 & 3 only).	Registration of málguzári land.
"	XXIX ...	Karnams.
1803,	I ...	Board of Revenue.
"	II ...	Conduct of Collectors, &c.
1804,	V ...	Court of Wards.
1805,	I ...	Salt-revenue.
1806,	II (parts of ss. 1 & 7).	Collectors and Karnams.
1807,	II ...	Salt-revenue.
1808,	VII ...	Martial Law.
1816,	IV ...	Village Munsifs.
"	V ...	Village Pancháyats.
"	IX (s. 43 only) ...	Prosecution of ZMá Magistrates.
"	XI ...	Sections, 8, 9, 10—Heads of villages: Section 11, cl. 1—Stolen property: Section 13—Discovery of corpses: Section 14—Register of persons confined by heads of villages: and Section 47—Magistrates charged with maintenance of peace.
"	XII ...	Reference of claims regarding land and produce to Village and District Pancháyats.
"	XIV ...	Native Pleders.

Year and Number.				Subject.
1817,	VII	...	...	Maintenance of Bridges, &c. ; Escheats.
"	VIII	(s. 9 only)	...	Sale for arrears of revenue of estate belonging to Native Officer or Soldier.
1819,	I	...	...	Land-revenue.
"	II	...	...	State Prisoners.
1821,	IV	(s. 4)	...	Petty Thefts.
1822,	IV	...	...	Explanation of Madras Regulation XXV, 1802.
"	VII	(cl. 1 of s. 3 only).	...	Native Officers in Revenue and other Public Departments.
"	IX	...	...	Embezzlement by public servants and malversation in revenue matters.
1823,	III	...	...	Powers of Subordinate and Assistant Collectors.
1828,	VII	...	...	Hindu Wills and Estates.
1829,	V	...	...	Prohibition of Widow-burning.
1830,	I	...	...	Unlawful assemblies; threatening Officers; ryots refusing to attend at annual settlement.
1831,	III	...	...	Liability of Ministerial Officers for reception of improperly stamped document.
"	V	(s. 7, cl. 2 only)	...	Hereditary Village Offices.
"	VI	...	...	Prohibition of Sale of Estates of Minors for Arrears of Revenue.
"	X	...	...	Limitation for Suits against orders of Revenue Authorities under Madras Regulation VII of 1828.
1832,	III	...	...	Cantonments.
"	VII	...	...	Hidden Treasure.
"	XI	...	...	Purchase of clothes from Soldiers.
"	XIV	...	...	

(b).—ACTS OF THE SUPREME COUNCIL RELATING TO THE MADRAS PRESIDENCY.

Year and Number.				Subject.
1837,	XXXVI	...	...	Criminal Jurisdiction of Collectors.
1838,	XII	...	...	Hidden Treasure.
1839,	VII	...	...	Tahsildars.
1840,	VIII	...	...	Awards of Panchayats.
"	XVII	...	...	Penalties for breach of Salt Laws.
1844,	VI	...	...	Duties.
1846,	I	...	...	Pleders.
"	IX	...	...	Harbours.
1849,	X	...	...	Commissioners of Revenue.
1852,	VII	...	...	Penalties for breach of Salt Laws.
1853,	XX	...	...	Pleders.
1855,	X	...	...	Section 10—Recusant witnesses.
"	XIV	...	...	Military Bázars.
"	XXI	...	...	Minors.
1856,	VIII	...	...	Control of Gaols.
1857,	VII	...	...	Uncovenanted Agency.
1858,	I	...	...	Compulsory Labour.
"	XIV	...	...	Minors.
1859,	XXIV	...	...	Police.
1860,	XXVIII	...	...	Boundary Marks.
1869,	XI	...	...	Land Customs.
"	XXIV	...	...	Salt.



## THIRD SCHEDULE.

(See section 5.)

## (a).—BOMBAY REGULATIONS.

Year and Number.		Subject.
1827,	II ...	Section 21 (caste questions): sections 47 to 54 (inclusive); and section 56 (pleaders).
"	IV ...	Section 26 (law applicable to suits): section 69, clauses <i>second</i> and <i>third</i> (attachment and distraint of crops).
"	V ...	Preamble: section 9 (acknowledgments of debt): section 14 (interest): section 15 (mortgages and pledges).
"	VIII ...	Administration of Estates.
"	XII ...	Preamble: section 19 (Magistrate's power to make rules): section 20 (standards of weights and measures): section 27, clause 2 (supervision of suspected persons): section 37, clauses <i>first</i> and <i>second</i> (responsibility of villages for robberies).
"	XIII ...	Section 34, clause <i>third</i> (letter substituted for summons).
"	XVI ...	Revenue Administration.
"	XXI ...	Sections 1 to 16, inclusive (Duty on opium): sections 46, 54 to 66, inclusive (spirits): sections 67 to 73, inclusive (penalties).
"	XXII ...	Section 18 (Furnishing) false certificates to soldiers): section 19 (buying uniform, arms, &c.): section 20 (recovery of value of embezzled stores): sections 40, 41, 42, 43 (passage of troops): sections 45, 46, 47 (requisitions for military aid).
"	XXV ...	State Prisoners.
1830,	V ...	Section 1 (Revenue Commissioners): section 2, clauses 1, 2, 3 (Collectors and Sub-Collectors).
"	XIII ...	Civil jurisdiction of Jāgirdārs.
1831,	XV ...	Village Patels.
1832,	II ...	Realization of Revenue.
1833,	V ...	Hereditary Officers.

## (b).—ACTS OF THE SUPREME COUNCIL RELATING TO THE BOMBAY PRESIDENCY.

Year and Number.		Subject.
1838,	XVI ...	Judiciary.
"	XVIII ...	Sureties.
"	XIX ...	Coasting Vessels.
1839,	XX ...	Revenue.
1840,	XV ...	Agents of Foreign Sovereigns.
1842,	XIII ...	Revenue.
"	XVII ...	Revenue Commissioners.
1843,	XI ...	Hereditary Officers.
1844,	XIX ...	Abolition of Town Duties.
1846,	I ...	Pleaders.
"	III ...	Sections 1, 5 and 6—Boundary Marks.
1852,	III ...	Spirituous Liquors.
"	XXI ...	Deputy Collectors.
1853,	XX ...	Pleaders.
1855,	X ...	Section 10—Recusant witnesses.
1856,	VIII ...	Control of Gaols.
1864,	XX ...	Minors.

SCHEDULE.—(Continued.)

PART I.—ACTS OF THE GOVERNOR GENERAL IN COUNCIL.—(Continued.)

Number and Year.	Subject.	Extent of Repeal.
I of 1871 ...	Cattle trespass ...	The third paragraph of section one.
II of 1871 ...	Extension of Prisons' Act to Coorg.	Clause (b) of section one.
III of 1871 ...	Paper Currency ..	The third paragraph of section one.
IV of 1871 ...	Coroners ...	The third paragraph of section one.
V of 1871 ...	Prisoners ...	The third paragraph of section one.
VI of 1871 ..	Bengal Civil Courts ...	The fourth paragraph of section one.
VII of 1871 ...	Emigration ...	The third paragraph of section one.
X of 1871 ...	Excise ...	The third paragraph of section one. Section eighty-eight.
XII of 1871 ...	Income Tax ...	The whole Act.
XIII of 1871 ...	Customs Duties ...	The third paragraph of section one. In section four, the words and figures "affects Act No. XX of 1867, or."
XVI of 1871 ...	Survey of Steamers (Burma.)	The third paragraph of section one.
XVII of 1871 ...	Land rates (Oudh) ...	The third paragraph of section one.
XVIII of 1871 ...	Land rates (N.W.P.) ...	The third paragraph of section one.
XX of 1871 ...	Land rates (Panjab) ...	The third paragraph of section one.
XXI of 1871 ..	Dehla Dún ...	In the preamble, the words "and to indemnify all officers and other persons who have acted in the said district under the said Regulations and Acts."
XXIV of 1871 ..	Local Public Works Loans.	In section one, the words "and shall come into force upon the passing thereof."
XXV of 1871 ...	Railways ...	The third paragraph of section one.
XXVI of 1871 ..	Land improvement ...	The third paragraph of section one.
XXVII of 1871 ...	Criminal tribes ...	In section one, the words "and it shall come into force on the passing thereof."
XXXII of 1871 ...	Civil Courts (Oudh) ...	Paragraphs three and four of section one.
III of 1872 ...	Marriage in certain cases	In section one, the last nine words.
VII of 1872 ...	Burma Courts ...	The last paragraph of section one. Sections three and four.
VIII of 1872 ...	Income Tax ...	The whole Act.
X of 1872 ...	Criminal Procedure ...	The third paragraph of section one.

## SCHEDULE.—(Continued.)

## PART I.—ACTS OF THE GOVERNOR GENERAL IN COUNCIL.—(Concluded.)

Number and Year.	Subject.	Extent of Repeal.
XI of 1872 ...	Foreign Jurisdiction ...	The last paragraph of section one.
XIII of 1872 ...	Patterns and Designs ...	The last nine words of section one.
XV of 1872 ...	Christian Marriage ...	The third paragraph of section one.
XVIII of 1872 ...	Amending Evidence Act	The second paragraph of section one.
XXI of 1872 ...	Native Military Lunatics	The third paragraph of section one.
XXVII of 1872 ...	Postponing Criminal Procedure Code in Sindh.	The whole Act.
I of 1873 ...	Amending Burma Courts' Act.	The third paragraph of section one.
II of 1873 ...	Burma Ferries ...	The third paragraph of section one.
IV of 1873 ...	Panjáb Municipalities ...	The third paragraph of section one.
V of 1873 ...	Government Savings Banks	The third paragraph of section one.
VI of 1873 ...	Transshipment ...	The third paragraph of section one.
VIII of 1873 ...	Canals and Drainage ...	The third paragraph of section one.
IX of 1873 ...	Panjáb Appeals ...	The third paragraph of section one.
XI of 1873 ...	Central Provinces Municipalities.	The third paragraph of section one.
XII of 1873 ...	Repealing Act, 1873 ...	The whole Act.
XIII of 1873 ...	Burma Timber ...	Section five.
XIV of 1873 ...	Lunatic Soldiers' property	The third paragraph of section one.
XV of 1873 ...	Municipalities (N.W.P. ... and Oudh).	The third paragraph of section one.
XVI of 1873 ..	Village Police (N.W.P.) ...	Section two.
V of 1874 ...	Kullu appeals ...	The preamble and section two.
VI of 1874 ...	Privy Council Appeals ...	Section two and the schedule.

## PART II.—ACTS OF THE GOVERNOR OF FORT ST. GEORGE IN COUNCIL.

Number and Year.	Subject.	Extent of Repeal.
III of 1865 ...	Offences against special and local laws.	The whole.
I of 1867 ...	Shortening language of Acts.	Sections six and seven.
III of 1867 ...	Claims against Azím Jah	The whole.
VIII of 1867 ...	Police ...	In section eighty-one, the words and figures "And sections 2 and 4 of Act XXII of 1837 and."
I of 1869 ...	Nilgiri Hills Commissioner	The whole.

SCHEDULE.—(Continued.)

PART III.—ACTS OF THE GOVERNOR OF BOMBAY IN COUNCIL.

Number and Year.	Subject.	Extent of Repeal.
VII of 1867 ...	District Police ...	Section twelve.
I of 1873 ...	Bombay Port Trust ...	Section one, and Schedule A.
III of 1873 ...	Fees levied under Bombay Act IX of 1863.	The whole.

PART IV.—ACTS OF THE LIEUTENANT GOVERNOR OF BENGAL IN COUNCIL.

Number and Year.	Subject.	Extent of Repeal.
VII of 1862 ...	Resumption of Revenue...	Sections three and four.
VIII of 1868 ...	Partial repeal of Act XXI of 1857.	The whole Act.
II of 1872 ...	Jute Warehouses ...	The last forty-three words of section one.

PART V.—MADRAS REGULATIONS.

Number and Year.	Subject.	Extent of Repeal.
III of 1802 ...	Procedure in Zila Courts	Section twenty-one.
IX of 1816 ...	Zila Magistrates ...	So much as has not been repealed.
II of 1819 ...	State Prisoners ...	Section four.
VII of 1822 ...	Rescinding Regulations I of 1809 and V of 1811.	In section three, the words "of the ministerial officers of the Courts of Judicature."
VII of 1832 ...	Military Bazaris ...	The whole.

PART VI.—BENGAL REGULATIONS.

Number and Year.	Subject.	Extent of Repeal.
II of 1793 ...	A Regulation for abolishing the Courts of Maal Adawlut, &c.	In section four, the words and figures "published in the manner directed in Regulation XLI., 1793." In section eight, clauses <i>Eleventh</i> and <i>Twelfth</i> . In section nine, the first three words. In section ten, the words "or dewans." In section fourteen, the words "and the dewan." In sections fifteen and eighteen, the words "or dewan."

## SCHEDULE.—(Continued.)

## PART VI.—BENGAL REGULATIONS.—(Continued.)

Number and Year.	Subject.	Extent of Repeal.
		<p>In section sixteen, the words "dewan or other."</p> <p>Sections twenty-one, twenty-two, twenty-seven, thirty, thirty-one, thirty-two, forty-six and forty-seven.</p> <p>In section twenty-four, the words and figures "by a Regulation published in the manner directed in Regulation XLI., 1793, or."</p> <p>In section twenty-five, the words "and the species of rupee in which each payment may be made."</p> <p>In section twenty-six, the last sentence.</p>
IV of 1793 ...	A Regulation for receiving, trying, and deciding suits, &c.	So much as has not been repealed.
VIII of 1793 ...	A Regulation for re-enacting with modifications, &c.	<p>Sections one, two, three, five to twelve (both inclusive), forty-two, forty-four, forty-five, forty-six, forty-seven, sixty-one and sixty-three.</p> <p>In section seventeen, the second sentence.</p> <p>In section eighteen, the second sentence.</p> <p>Section twenty-one from and including the words "in the mode" to the end of the section.</p> <p>In section thirty-five, the second sentence.</p> <p>Sections sixty-eight to one hundred and one, both inclusive.</p>
X of 1793 ...	Decennial settlement ...	So much as has not been repealed.
XI of 1793 ...	Inheritance ...	<p>Section two down to and including the word "Higeree."</p> <p>In section three, the words "subsequent to the period specified in section II."</p> <p>Section four down to and including the words "and that."</p> <p>Section five, except the first ten words, and in section six, the figure and words "VI. Nor to."</p>
XIV of 1793 ...	Recovery of Arrears of Revenue.	So much as has not been repealed.
XIX of 1793 ...	Non-bādshāhī lakhirāj grants.	<p>Section eighteen.</p> <p>In section two, clause <i>Second</i>, the words and figures "and proceeded in it, as required by section XIV, Regulation III., 1793."</p> <p>In section thirty-five, the words "and also to the Provincial Court of Appeal of the Division," and "and to the Provincial Court of Appeal of the Division," and "Provincial Court of Appeal or."</p> <p>In section forty-two, the second and third sentences.</p> <p>In section forty-three, the first four words.</p>

SCHEDULE.—(Continued.)

PART VI.—BENGAL REGULATIONS.—(Continued.)

Number and Year.	Subject.	Extent of Repeal.
XXXVII of 1793 ...	Bádsbáhi lákhiráj grants	<p>In section ten, the words "to the Provincial Court of Appeal, or from the decision of the Provincial Court," and the words "in the event of their ordering the cause to be appealed to the Provincial Court and of its being given against them therein," and the words "in both cases."</p> <p>Sections thirteen, twenty-five and thirty-four.</p> <p>In section seventeen, the words "every five years."</p> <p>In section twenty-eight, the words "of the five years."</p> <p>In section thirty, the words "and also to the Provincial Court of Appeal of the division," * * * "and to the Provincial Court of Appeal of the division," and "Provincial Court of appeal or."</p> <p>In section thirty-seven, the last two sentences.</p> <p>In section thirty-nine, the words and figures "which is to be formed in each of the Zillahs in Bengal, Behar, and Orissa, at the commencement of the Bengal, Fussily, and Willaity year 1207, and at the commencement of every succeeding five years," and the word "five."</p>
XXXVIII of 1793 ...	Lending to zamíndárs ...	<p>In section two, the words "and City," and the words "the Judges of the Provincial Courts of Appeal and the Courts of Circuit, and the registers to their respective Courts."</p>
XLVIII of 1793 ...	A Regulation for forming a quinquennial register, &c.	<p>In section two, clause <i>First</i>, the words "every five years."</p> <p>In sections ten, eleven, thirteen, sixteen, seventeen, nineteen, twenty-one, twenty-three, twenty-five, twenty-eight, twenty-nine and thirty, the word "quinquennial" wherever it occurs.</p> <p>In section ten, the words "every" and "five."</p> <p>In section sixteen, the word "five."</p> <p>In section eighteen, the words "and also to the Provincial Court of Appeal of the division;" * * * "and to the Provincial Court of Appeal of the division in which it may be included," and "Provincial Court of Appeal or."</p> <p>In section nineteen, the words "at the end of every five years."</p> <p>Section twenty-two.</p> <p>In section twenty-four, clause <i>Second</i>. In the same section, clause <i>Fifth</i>, the words and figures "Regulation XXV., 1793; that Regulation directing that the division and union of all estates are to be made under." In the same section, clause <i>Seventh</i>.</p> <p>In section twenty-six, the last two sentences.</p> <p>Section twenty-seven.</p>

## SCHEDULE.—(Continued.)

## PART VI.—BENGAL REGULATIONS.—(Continued.)

Number and Year.	Subject.	Extent of Repeal.
L of 1793 ...	A Regulation for empowering the Court of Wards, &c.	In section twenty-nine, the words and figures "at the commencement of the Bengal, Fussily, and Willaity year 1207, and at the commencement of every succeeding five years." So much as has not been repealed.
III of 1794 ...	A Regulation for exempting proprietors of land, &c.	The whole Regulation, except sections twelve, thirteen, sixteen, seventeen, eighteen, nineteen and twenty. In section thirteen, the words and figures "by section III, Regulation XIV., 1793."
VIII of 1795 ...	Extending Regulation IV of 1793.	So much as has not been repealed.
XXVII of 1795 ...	Permanent Settlement, Benares.	In section ten, the words and figures "and printed and published in the manner prescribed in Regulation XLI., 1793," and "as referred to in Regulation II., 1795."
LV of 1795 ...	Court of Wards. Security from guardians.	So much as has not been repealed.
I of 1799 ...	Frontier of Sylhet ...	In section two, the words "natives of the Company's provinces; and to Armenians, Greeks and all other," and the words "not being British-born subjects; as well as to such British-born subjects as may be authorized by a license from Government to reside in the district of Sylhet." In section six, from and including the words "in the mode" down to the end of the section. Section seven.
V of 1799 ..	Wills and Intestacy ...	In section one, the words and figures "prescribed in section XV of Regulation IV., 1793, viz." In section two, the words and figures "Regulation X., 1793, or," and the word "other" before "Regulation;" and from and including the words "under the general rule" to the end of the section. In sections one, two, three and seven, the words "and City" and "or City," wherever they occur. In section eight, the words and figures "described in Regulation X., 1793," and "by the above or any other Regulation," and the word "the" before "disqualified."
VII of 1799 ...	Realization of rent and revenue.	So much as has not been repealed.

SCHEDULE—(Continued.)

PART VI.—BENGAL REGULATIONS.—(Continued.)

Number and Year.	Subject.	Extent of Repeal.
II of 1800 ...	Stone quarries at Chunar	In section two, the words "native inhabitants of the Company's provinces and all other," and from and including the words "not being" down to and including the figures "1793." In section eight, the words and figures "which are exempted from the customs by section X, Regulation III. 1795." Section nine. In section ten, the words "besides an oath, or solemn declaration, for the faithful execution of their respective duties."
V of 1800 ...	Extending to Benares Regulation VII of 1799.	The whole Regulation.
VIII of 1800 ...	Pargana Register ...	In section four, the words "at the commencement of every fifth succeeding year." In sections five, six, seven, nine, ten, fourteen, sixteen, seventeen and nineteen, the word "quinquennial" wherever it occurs. In section five, the words "the interval of five years." In section six, the words "in the Persian language;" and the words and figures "appointed under Regulation XXI. 1793 (extended to Benares by Regulation XXXVII. 1795)," and the words "(or by the city judge in the province of Benares)." In section eleven, the words "directed to be prepared at the expiration of every five years." In section seventeen, the words and figures "appointed under Regulation XXI. 1793," and from and including the words "Such officers shall" to the end of the section. Section twenty-two.
I of 1801 ..	Commissioners of Revenue and Circuit, Board of Revenue, &c.	Sections one, two, four, nine and fifteen. In section eight, the words and figures "or to alter the provisions made for the correction of error or collusion in such allotments, by section twenty-five, Regulation XXV. 1793, in cases of private divisions of estates; and by clause <i>Second</i> of section twenty-nine, Regulation VII. 1799, in cases of public sales." In section ten, the words and figures "or of suspicion that the purchase has been made in opposition to the Rules contained in clauses 3 and 4 of section XXIX, Regulation VII. 1799," and "for the orders of the Governor General in Council, as directed in clause <i>Fourth</i> of section XXIX, Regulation VII 1799."
VII of 1801 ...	Duty on Coasting Vessels, &c.	The whole Regulation.



## SCHEDULE.—(Continued.)

## PART VI.—BENGAL REGULATIONS.—(Continued.)

Number and Year.	Subject.	Extent of Repeal.
XIII of 1803 ...	Records of Courts, Ceded Provinces.	The whole Regulation.
XLIII of 1803 ...	Fees on institution of suits	So much as has not been repealed.
XLIX of 1803 ...	Assistant Judges ...	So much as has not been repealed.
V of 1804 ...	Appointment and removal of Native Officers.	So much as has not been repealed.
X of 1804 ...	Punishment of State offences by Courts Martial, &c.	In section four, the words and figures "or before any special court appointed for the trial of such offences, under Regulation IV. 1799, and Regulation XX. 1803."
X of 1805 ...	Sadr Adálat ...	So much as has not been repealed.
XII of 1805 ...	Settlement and Collection of public revenue, Cuttack, &c.	Sections twelve, thirteen, fourteen, fifteen and sixteen.
XIII of 1805 ...	Cuttack Police ...	In section two, the words and figures "formed into one zillah, instead of two zillahs, as prescribed in Regulation IV. 1804, and shall be." Section twelve.
VI of 1806 ...	Embankments ...	So much as has not been repealed.
VII of 1806 ...	A Regulation for re-establishing a Court of Civil Judicature in the vicinity of Calcutta, &c.	The whole Regulation.
VIII of 1806 ...	Complaints against Collectors.	So much as has not been repealed.
XI of 1806 ...	Supplies for Troops, &c.	Sections nine, eleven and twelve.
VIII of 1809 ...	Appointment and removal of ministerial officers.	So much as has not been repealed.
X of 1810 ...	A Regulation for abolishing the duties, &c.	The whole Regulation.
XX of 1810 ...	Camp-followers, bázars ...	Section five; and in section three, the words "or the second article of the fifteenth section of the Hon'ble Company's."
IX of 1811 ...	Partition ...	The whole Regulation.
XI of 1811 ...	Revision of jama on divided lands.	Section two.
III of 1812 ...	Criminal Procedure, &c.	So much as has not been repealed.

SCHEDULE.—(Continued.)

PART VI.—BENGAL REGULATIONS.—(Continued.)

Number and Year.	Subject.	Extent of Repeal.
V. of 1812 ...	Collection of Land Revenue.	Section one. Section two down to and including the words "rescinded; and." Section three down to and including the words "rescinded; and." Section four down to and including the words "declared that," and the words and figures "the case to be tried as a summary suit under Regulation VII. 1799." Section twenty-six from and including the words "provided, however," to the end. Section twenty-seven from and including the words "and should those authorities" to the end.
XI of 1812 ...	Foreign Immigrants ...	In section five, the words "before the Court of Circuit," in each of the places where they occur, and the words "of circuit."
XV of 1812 ...	Extending parts of Regulation I. 1811.	So much as has not been repealed.
XVIII of 1812 ..	Explaining section 2 of Regulation V. 1812.	Section three, clause <i>First</i> .
XXII of 1812 ...	Bandelkhand ...	In section four, the two provisos.
XIX of 1814 ..	Partition of Revenue-paying estates.	Section two; and in section thirteen, clause <i>First</i> . The words "or Board of Commissioners," and "and Board of Commissioners," wherever they occur. In section seventeen, clause <i>Third</i> , the second sentence. In section twenty-one, the words "as the case may be" and "respectively."
XXV of 1814 ...	Sadr Diwān Adālat and Provincial Courts.	So much as has not been repealed.
XXVII of 1814 ...	Native Pleaders ...	So much as has not been repealed.
V of 1816 ...	Kānungo, Cuttack ...	In section one, from and including the words "to be in force" to the end of the section. In section three, the words and figures "under the provisions of Regulation V. 1804, and Regulation VIII. 1809."
IX of 1816 ...	The Sunderbuns ...	Section one from and including the words "to be in force" to the end of the section.
XI of 1816 ..	Succession to certain estates in Cuttack.	Sections four, six, ten and twenty; and in section eighteen, the figures and word "IV," "VI" and "X."
XVII of 1816 ...	Police ...	So much as has not been repealed.

## SCHEDULE.—(Continued.)

## PART VI.—BENGAL REGULATIONS.—(Continued.)

Number and Year.	Subject.	Extent of Repeal.
V of 1817 ...	Hidden Treasure ...	<p>In section five, the words "the Board of Commissioners, or the Commissioner in Behar and Benares, or."</p> <p>In section six, the words and figures "within the period limited by the notification directed in section IV of this Regulation," *** "and deposited it in the Zillah or City Court, as required by section III."</p> <p>In section seven, the words "and deposited."</p> <p>In section eight, the words and figure "in conformity with section IV, and make the deposit thereby required;" and "or the Board of Commissioners in the Western Provinces or the Commissioner in Behar and Benares."</p> <p>In section nine, the words "or City," and the last fourteen words.</p> <p>Section ten.</p>
XII of 1817 ...	Patwāris ...	<p>In the preamble, the words "from the date of their promulgation."</p> <p>Sections two, four, five and six.</p> <p>In section nine, the words and figures "to furnish the Collector with the statement required in section IV, and;" and "sections V and VII of."</p> <p>In section eleven, the words and figures "to furnish the statement required by section IV, or," *** "sections V and VII of," *** "in those sections," and "the Board of Commissioners, or the Commissioner in Behar and Benares, as the case may be."</p> <p>In section twenty-six, the words "before a Court of Circuit," *** "in the Regulations," and "under the provisions of the Regulations."</p> <p>In section twenty-seven, the words "before a Court of Circuit," and "in the Regulations."</p> <p>In section thirty-one, the words "the Board of Commissioners or the Commissioner in Behar and Benares, according as he may be subject to one or other of those authorities," *** "and Commissioner aforesaid."</p> <p>In section thirty-two, the words "Board of Commissioners and Commissioner in Behar and Benares, as the case may be."</p> <p>In section thirty-three, the words "or Commissioner."</p> <p>In sections thirty-three and thirty-five, the words "the Board of Commissioners or the Commissioner in Behar or Benares, as the case may be."</p>
XX of 1817 ...	Police ...	<p>Sections one to eight (both inclusive), ten, eleven, thirty-one, thirty-three and thirty-four.</p> <p>In section twenty-eight, clause <i>Second</i>, the words and figures "as directed in section XXIV, Regulation X. 1813."</p>

## SCHEDULE.—(Continued.)

## PART VI.—BENGAL REGULATIONS.—(Continued.)

Number and Year.	Subject.	Extent of Repeal.
		<p>In section twenty-nine, clause <i>First</i>, the words, "weaver," *** "engaged in the provision of the Company's investment, or," *** "commercial," *** "commercial resident."</p> <p>In clause <i>Second</i>, the word "commercial."</p> <p>In clause <i>Third</i>, the words "weavers," *** "engaged in the provision of the Company's investment, or," *** "commercial," *** "commercial resident."</p> <p>In clause <i>Fourth</i>, the words "weaver," *** "engaged in the provision of the Company's investment, or," *** "commercial," and "commercial resident."</p> <p>In clause <i>Fifth</i>, the words and figures "as required by the <i>Second</i> clause of section XI, Regulation VI. 1801," and the words "commercial resident or."</p> <p>In clause <i>Ninth</i>, the words and figures "as required by the provisions of Regulation XIII. 1816, which are herein recapitulated for their information and guidance."</p> <p>Clauses <i>Tenth</i> and <i>Eleventh</i>.</p> <p>In section thirty, clauses <i>Third</i> and <i>Sixth</i>; and in clause <i>Second</i>, the words and figures "in pursuance of section IX, Regulation XI. 1806."</p>
III of 1818 ...	State Prisoners ...	<p>In section four, the words "of circuit" wherever they occur.</p> <p>Section eight.</p> <p>In section nine, the words "to the Provincial Court of Appeal and Circuit, and."</p>
II of 1819 ...	Resumption of Revenue	<p>Sections two, twenty-five and twenty-seven.</p> <p>In section six, the words "in the Persian language and character."</p> <p>In section nineteen, clause <i>First</i>, from and including the words "conformably with" to the end of the clause.</p> <p>In sections twenty, twenty-one and thirty, the word "Persian."</p> <p>Section twenty-four, clause <i>Second</i>.</p> <p>Section twenty-six, clause <i>First</i>, except the words "In cases instituted in the Zillah Court *** an appeal shall be received by the Court of Sudder Dewanny Adawlut."</p> <p>Clause <i>Second</i> down to and including the words "appeals but," and the words "or Provincial Court," and the word "special" wherever it occurs.</p> <p>In section thirty, clauses <i>Fifth</i> and <i>Seventh</i>, the words "or City."</p>
VI of 1819 ..	Ferries ...	<p>In section two, clause <i>First</i> and the first six words of clause <i>Second</i>.</p> <p>In section three, clause <i>Second</i>, the words and figures "under the provisions of Regulation XIX. 1816."</p>

## SCHEDULE.—(Continued.)

## PART VI.—BENGAL REGULATIONS.—(Continued.)

Number and Year.	Subject.	Extent of Repeal.
VIII of 1819 ...	Patni Taluqs	<p>In section six, clause <i>Second</i>, the words "through the channel of the Superintendents of Police."</p> <p>Section fourteen.</p> <p>In section two, the words and figures "under the rule of section V, Regulation XLIV. 1793."</p> <p>In section three, clause <i>Third</i>, the words and figures "under the rule contained in the seventh clause of section XV, Regulation VII. 1799, for leases conveying a limited interest in the land."</p> <p>In section eight, clause <i>Second</i>, the words "to the Civil Court of the District, and a similar one."</p> <p>In section nine, the words "by the Register or acting Register of the Civil Court, or, in his absence, by the person in charge of the Office of Judge, or of Magistrate of the District within which the lands may be situated."</p> <p>In section fifteen, clause <i>Second</i>, the word "summary," and the words and figures "brought under the provisions of section XV, Regulation VII. 1799, or in any application to stay process by distraint, under the rules of Regulation V. 1812."</p>
II of 1820 ...	Offences in Chandernagore	The whole Regulation.
IV of 1821 ...	Collectors' powers	<p>In section six, clause <i>First</i>, the words "and City," and the whole of clause <i>Second</i>.</p> <p>In section seven, the words "or City" wherever they occur.</p> <p>In section eight, clause <i>Third</i>, the words "or the Boards of Commissioners," *** "or Board of Commissioners."</p>
III of 1822 ...	Board of Revenue	Sections two and three, and clauses <i>Second</i> and <i>Third</i> of section four.
VII of 1822 ...	Settlement—Ceded Provinces and Cuttack	<p>In section two, the first five clauses, and the first fourteen words of clause <i>Sixth</i>.</p> <p>In section five, clause <i>Second</i>; section six, clause <i>First</i>; section seven, clause <i>First</i>; section nine, clause <i>Second</i>; section twelve, clause <i>Second</i>, and section seventeen, the words "of Commissioners."</p> <p>In section fifteen, the words "or Provincial," and "according to the value of the interest at stake."</p> <p>In section sixteen, the words "or Provincial,"</p> <p>In section twenty, clause <i>Second</i>, the words "or City."</p> <p>In section twenty-three, clause <i>Third</i>, the words "or City."</p> <p>In section twenty-nine, clause <i>Fifth</i>, the word "Persian."</p>

SCHEDULE.—(Continued.)

PART VI.—BENGAL REGULATIONS.—(Continued.)

Number and Year.	Subject.	Extent of Repeal.
		<p>In section thirty, the words "or City," and "or Provincial Court of the Division," and "under the general Regulations for the administration of civil justice."</p> <p>In section thirty-one, clause <i>Second</i>, the words "any register, sudder aumeen, or," and "registers, sudder aumeens, and."</p> <p>In section thirty-three, clause <i>First</i>, the words and figures "shall be guided by the rules contained in Regulation XVI, 1793, and the other corresponding enactments, and in Regulation VI, 1813, in so far as the same may be applicable, and."</p>
VI of 1823 ..	Indigo suits ...	<p>In section three, clause <i>First</i>, the words "or city," and "or to a register exercising the powers of Joint Magistrate."</p> <p>In section six, the word "summary" (wherever it occurs), "nevertheless" and "by a summary award;" and the passage beginning with "they shall be either" and ending with "under this Regulation."</p>
VII of 1823 ...	Loans to Covenanted Civil Servants.	<p>Section two, clause <i>Third</i>.</p> <p>In section three, the words "and city."</p> <p>Section five.</p> <p>In section eight, the words "provincial," * * * "by the Provincial Courts," and "of the Regulations."</p>
VII of 1825 ...	Sales of land in execution of decrees.	So much as has not been repealed.
XIV of 1825 ...	Revenue Authorities ...	Section six from and including the words "to the Provincial Court" down to and including "pounds sterling." In the same section, the words "or Provincial."
XV of 1825 ...	Customs duties ...	So much as has not been repealed.
XX of 1825 ...	Courts Martial ...	In section four, the words "or City," and the words and figures "under the provisions of Regulation L. 1803."
III of 1827 ...	Ministerial Native Officers	The whole Regulation except section five.
V of 1827 ...	Management of estates under attachment.	<p>In section two, the words and figures "and sections XXVI and XXVII, Regulation V, 1812, and clause <i>Third</i>, section V, Regulation VI. 1813."</p> <p>In sections two and three, the words "and City."</p> <p>In section four, the words "or City."</p>

## SCHEDULE.—(Concluded.)

## PART VI.—BENGAL REGULATIONS.—(Concluded.)

Number and Year.	Subject.	Extent of Repeal.
III of 1828 ...	Special Commissioners for hearing Revenue Appeals.	In section two, clause <i>Third</i> , the words "through the Court of Sudder Dewanny Adawlut," and "Provincial and," In section four, clause <i>First</i> , the words "in a Persian roobukaree." Section six, clauses <i>Sixth</i> and <i>Seventh</i> . In section ten, clause <i>Fourth</i> , the words "the Provincial Courts, or," *** "or the Provincial," *** "respectively." In section ten, clause <i>Fifth</i> from and including the words "and the Civil Courts" to the end of the section. Section eleven, clause <i>First</i> .
IV of 1828 ...	Powers of Collectors	In section two, clause <i>Fourth</i> , before the word "magistrates," the words "the powers vested in;" and the words and figures "by Regulation XV. 1824, shall be suspended in regard to all mehauls of which the settlement may be so in progress; and the said officers"
I of 1829 ...	Commissioners of Revenue	Sections three and five
IV of 1829 ..	Modifying Regulation III, 1828.	In section two, clause <i>First</i> , the words "or City," and "or of a Provincial Court."
XV of 1829 ...	Valuing goods imported by sea.	So much as has not been repealed.
III of 1830 ...	Amending Regulation XV of 1829.	So much as has not been repealed.
VI of 1831 ...	Sadr Diwāni Adālat (N. W. P.)	Sections one, two, three, four, five and eight.
XI of 1831 ...	Police-powers of Tahsil-dārs.	Section eight.
VI of 1832 ...	Native Assessors ...	So much as has not been repealed.
VI of 1833 ...	Customs duties ...	So much as has not been repealed.
IX of 1833 ...	Revenue Settlements ...	Section four.







THE  
**LEGISLATIVE ACTS**  
 OF THE  
 GOVERNOR GENERAL OF INDIA IN COUNCIL  
 FOR 1875.

THE DISTRESS ACT, 1875.

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## ACT I OF 1875.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

*(Received the assent of the Governor General on the 19th January 1875.)**An Act to regulate Distresses for Rents in the Presidency Towns.*

Preamble. FOR the purpose of regulating distresses for rents in the  
Towns of Calcutta, Madras and Bombay ;  
It is hereby enacted as follows :—

I. *Preliminary.*

Short title. 1. This Act may be called "The Distress Act, 1875," and  
Commencement. it shall come into force at once.

It extends to every place within the local limits of the ordinary original civil jurisdic-  
tions of the High Courts of Judicature at Fort William, Madras  
Local extent. and Bombay;

But nothing herein contained applies—

(a) to any rent due to Government;

(b) to any rent which has been due for more than twelve months before the appli-  
cation mentioned in section six.

2. The enactments specified in the second schedule hereto annexed are repealed  
Enactments repealed. to the extent mentioned in the third column of the same  
schedule.

All appointments made and securities given under any of the said enactments shall  
be deemed to be respectively made and given under this Act.

The reference to Act No. VII of 1847 made in Act XXIII of 1850, section three,  
shall be read as if made to this Act.

3. In this Act, "Court of Small Causes" means the Court of Small Causes for the  
"Court of Small Causes" time being established by law in Calcutta, Madras, or Bombay,  
defined as the case may be.

II. *Bailiffs and Appraisers.*

4. The Judges of the Court of Small Causes may appoint four or more persons to  
Appointment of bailiffs be bailiffs and appraisers for the purpose of this Act, and may  
and appraisers from time to time, with the previous sanction of the Local  
Government, fix such remuneration for the services of such officers as the said Judges  
think fit, and may suspend or remove them.

5. The persons so appointed shall give security to be approved by the said Judges  
Security to be given by faithfully to discharge the duties of their office, and they shall be  
appointees. deemed to be public servants within the meaning of the Indian  
Penal Code.

### III. Issue of Distress Warrants.

6. Any person claiming to be entitled to arrears of rent of any house or premises Application for dis- to which this Act extends, or his duly constituted attorney, may tress-warrant. apply to any Judge of the Court of Small Causes for such warrant as hereinafter mentioned.

The application shall be supported by an affidavit or affirmation to the effect of the form (marked A) in the first schedule hereto annexed.

7. The Judge may thereupon issue a warrant under his hand and seal and return- able within six days, to the effect of the form contained in the same schedule (marked B) addressed to any one of such bailiffs. Issue of distress-warrant.

The Judge may, at his discretion, upon personal examination of the person applying for such warrant, decline to issue the same.

### IV. Of the making of Distresses.

8. Every distress under this Act shall be made after sunrise and before sunset, and not at any other time. Time for distress.

9. The bailiff directed to make the distress may force open any stable, out-house, What places bailiff may or other building, and may also enter any dwelling-house, the force open. outer door of which may be open and may break open the door of any room in such dwelling-house for the purpose of seizing property liable to be seized under this Act :

Provided that he shall not enter or break open the door of any room appropriated for the zanáná or residence of women, which, by the usage of the country, is considered private.

10. In pursuance of the warrant aforesaid the bailiff shall seize the moveable Property which may be property found in or upon the house or premises mentioned in the seized. warrant and belonging to the person from whom the rent is claimed (hereinafter called the debtor), or such part thereof as may in the bailiff's judgment be sufficient to cover the amount of the said rent, together with the costs of the said distress.

Provided that the bailiff shall not seize—

- (a) things in actual use ; or
- (b) tools and implements not in use, where there is other moveable property in or upon the house or premises sufficient to cover such amount and costs ; or
- (c) the debtor's necessary wearing apparel ; or
- (d) goods in the custody of the law.

Impounding distress.

11. The bailiff may impound or otherwise secure the property so seized in or on the house or premises chargeable with the rent.

12. On seizing any property under section ten, the bailiff shall make an inventory of such property and shall give a notice in writing to the effect of the Form in the first schedule hereto annexed (marked C) to the debtor, or to any other person upon his behalf in- upon the said house or premises. Inventory. Notice of intended ap- praisement and sale.

Copies of inventory and notice to be filed.

The bailiff shall, as soon as may be, file in the Court of Small Causes copies of the said inventory and notice.

### V. Of Applications to discharge Distresses, and of Compensation.

13. The debtor, or any other person alleging himself to be the owner of any Application to discharge property seized under this Act, may, at any time within five or suspend warrant. days from such seizure, apply to any Judge of the said Court to discharge or suspend the warrant, or to release a distrained article, and such Judge may discharge or suspend such warrant or release such article accordingly, upon such terms as he thinks just,

and any of the Judges of the said Court may in his discretion give reasonable time to the debtor to pay the rent due from him.

Upon any such application, the costs attending it and attending the issue and execu- tion of the warrant shall be in the discretion of the Judge, and shall be paid as he directs.

14. If any claim be made to, or in respect of, any property seized under this Act, Claim to goods distrained or in respect of the proceeds or value thereof, by any person not made by a stranger. being the debtor, the Chief Clerk of the Court of Small Causes, upon the application of the bailiff who seized the property, may issue a summons calling before the Court the claimant and the person who obtained the warrant.

And thereupon any suit which may have been brought in the High Court in respect of such claim shall be stayed, and any Judge of the High Court, on proof of the issue of such summons and that the property was so distrained, may order the plaintiff to pay the costs of all proceedings in such suit after the issue of such summons.

And a Judge of the Court of Small Causes shall adjudicate upon such claim and make such order between the parties in respect thereof and of the costs of the proceedings as he thinks fit ;

and such order shall be enforced as if it were an order made in a suit brought in such Court.

The procedure in Courts of Small Causes in cases under this section shall conform, as far as may be, to the procedure in an ordinary suit in such Courts.

15. In any case under section thirteen or section fourteen the Judge by whom the case is heard may award such compensation by way of damages Power to award compensation to debtor or claimant. to the applicant or claimant (as the case may be) as the Judge thinks fit,

and may for that purpose make any enquiry he thinks necessary ;

and the order of the Judge awarding or refusing such compensation shall bar any suit in respect of injury caused by the distress.

16. In any application under section thirteen or any claim under section fourteen, Power to transfer to High Court cases involving more than Rs. 1,000. if the value of the subject-matter in dispute exceeds one thousand rupees, the applicant or claimant may apply to the High Court to transfer the case to itself, and the High Court on being satisfied that it is expedient that the case should be disposed of by itself, may direct the case to be transferred accordingly, and may thereupon alter or set aside any order passed in the case by a Judge of the Court of Small Causes, and may make such order therein as the High Court thinks fit.

Every application under this section shall be made within seven days from the date of the seizure of the subject-matter in dispute.

In granting applications under this section, the High Court may impose such terms as to payment of, or giving security for, costs or otherwise as it thinks fit.

The procedure in cases transferred under this section shall conform as far as may be to the procedure in suits before the High Court in the exercise of its ordinary original civil jurisdiction ; and orders made under this section may be executed as if they were made in the exercise of such jurisdiction ; and every such order awarding or refusing compensation shall bar any suit in respect of injury caused by the distress which gave rise to the case wherein such order was made.

## VI. Appraisal and Sale of Distress.

17. In default of any order to the contrary by a Judge of the Court of Small Causes, or by the High Court, any two of the said bailiffs may, Appraisement. at the expiration of five days from a seizure of property under this Act, appraise the property so seized, and give the debtor Notice of sale. notice in writing to the effect of the Form in the first schedule hereto annexed (marked D).

The bailiffs shall file in the same Court a copy of every notice given under this section.

18. In default of any such order to the contrary, the distrained property shall be Sale. sold on the day mentioned in such notice, and the said bailiffs shall on realizing the proceeds pay over the amount thereof to the Application of proceeds. Chief Clerk of the Court of Small Causes, and such amount shall be applied first in payment of the costs of the said distress and then in satisfaction of the debt ; and the surplus, if any, shall be returned to the debtor :

Provided that the debtor may direct that the sale shall take place in any other manner, first giving security for any extra costs thereby occasioned.

VII. *Miscellaneous.*

19. No costs of any distress under this Act shall be taken or demanded except those mentioned in the part of the first schedule hereto annexed (marked E).  
Costs of distresses.

The Judges of the Court of Small Causes may apply the sum so raised as costs towards the payment of the contingent charges and remuneration of the said bailiffs, as appears to the said Judges expedient.

20. The Chief Clerk of the Court of Small Causes shall keep a book in which all Account of costs and sums received as costs upon distresses made under this Act, and all sums paid as remuneration to the said bailiffs, and all contingent charges incurred in respect of such distresses shall be duly entered.

He shall also enter in the said book all sums realized by sale of the property distrained and paid over to landlords under the provisions of this Act.

Bar of distresses except under this Act. 21. No distress shall be levied for arrears of rent, except under the provisions of this Act.

And any person, except a bailiff appointed under section four, levying or attempting to levy any such distress shall, on conviction before a Magistrate of Police, be liable to be punished by fine not exceeding five hundred rupees and imprisonment for a term not exceeding three months, in addition to any other liability he may have incurred by his proceedings.  
Penalty for making illegal distresses.

THE FIRST SCHEDULE.

A.

[See section 6.]

*In the Court of Small Causes for*

A. B. (Plaintiff).

*versus*

C. D. (Defendant).

A. B., of \_\_\_\_\_, in the town of \_\_\_\_\_, maketh oath [or affirms] and saith that C. D. is justly indebted to \_\_\_\_\_ in the sum of Rs. \_\_\_\_\_ for arrears of rent of the house and premises No. \_\_\_\_\_, situated at \_\_\_\_\_ in the town of \_\_\_\_\_, due for \_\_\_\_\_ month, to wit from \_\_\_\_\_ to \_\_\_\_\_, at the rate of Rs. \_\_\_\_\_ per mensem. Sworn [or Affirmed] before me the \_\_\_\_\_ day of \_\_\_\_\_ 187 .

*Judge*

B.

[See section 7.]

*In the Court of Small Causes for*

FORM OF WARRANT.

I hereby direct you to distrain the moveable property of C. D., on the house and premises situate at No. \_\_\_\_\_, in the town of \_\_\_\_\_, for the sum of \_\_\_\_\_ Rs. and the costs of the distress, according to the provisions of The Distress Act, 1875. Dated \_\_\_\_\_ day of \_\_\_\_\_

(Signed and sealed.)

To E. F., Bailiff and Appraiser.

C.

[See section 12.]

*In the Court of Small Causes for*

FORM OF INVENTORY AND NOTICE.

(State particulars of property seized.)

Take notice that I have this day seized the moveable property contained in the above inventory for the sum of \_\_\_\_\_ Rs., being the amount of \_\_\_\_\_ month's rent due to

# LEGISLATIVE ACTS OF THE

[W. R.]

A. B. at last, and that unless you pay the amount thereof, together with the costs of this distress, within five days from the date hereof, or obtain an order from one of the Judges of the Court of Small Causes to the contrary, the same will be appraised and sold pursuant to the provisions of The Distress Act, 1875. Dated the day of 187

(Signed) E. F.,  
Bailiff and Appraiser.

To C. D.

D.

[See section 17.]

In the Court of Small Causes for

Take notice that we have appraised the moveable property seized on the day of notice and inventory were duly served upon you [or upon your behalf, as the case may be] under date the [two clear days at least after the date of the notice] will be sold on the pursuant to the provisions of the said Act. Dated this day of 187

(Signed) E. F.,  
G. H.  
Bailiffs and Appraisers.

To C. D.

E.

[See section 19.]

In the Court of Small Causes for

SCALE OF FEES TO BE LEVIED IN DISTRAINTS FOR HOUSE RENT.

Sums sued for		Affidavit and warrant to distrain.	Order to sell.	Commission.	Total.
Rs.	Rs.	Rs. A. P.	Rs. A. P.	Rs. A. P.	Rs. A. P.
1 and under	5 ...	0 4 0	0 8 0	0 8 0	1 4 0
5 "	10 ...	0 8 0	0 8 0	1 0 0	2 0 0
10 "	15 ...	0 8 0	0 8 0	1 8 0	2 8 0
15 "	20 ...	0 8 0	1 0 0	2 0 0	3 8 0
20 "	25 ...	0 12 0	1 0 0	2 8 0	4 4 0
25 "	30 ...	1 0 0	1 0 0	3 0 0	5 0 0
30 "	35 ...	1 0 0	1 0 0	3 8 0	5 8 0
35 "	40 ...	1 0 0	1 8 0	4 0 0	6 8 0
40 "	45 ...	1 4 0	2 0 0	4 8 0	7 12 0
45 "	50 ...	1 8 0	2 0 0	5 0 0	8 8 0
50 "	60 ...	2 0 0	2 0 0	6 0 0	10 0 0
60 "	80 ...	2 8 0	2 8 0	6 8 0	11 8 0
80 to	100 ...	3 0 0	3 0 0	7 0 0	13 0 0
Upwards of Rs. 100	...	3 0 0	3 0 0	7 per centum	

The above scale is intended to include all expenses, except in suits where the tenant disputes the landlord's claim, and witnesses have to be subpoenaed, in which case each subpoena for sums under Rs. 40 must be paid for at four annas each, and twelve annas above that amount; and also where peons were kept in charge of property distrained, four annas per day must be paid per man.

THE SECOND SCHEDULE.

I.—STATUTES.

Year and Chapter.		Subject.	Extent of Repeal.
52 Hen. 3,	c. 1	Distress ... ..	The whole.
	c. 3	Resisting replevins ..	Ditto.
	c. 4	Distress ... ..	Ditto.
	c. 16	Ditto ... ..	Ditto.
	c. 21	Replevin ... ..	Ditto.
13 Ed. 1,	c. 2	Replevins ... ..	Ditto.
	c. 37	Distress to be by bailiffs ..	Ditto.
<i>Leg. Estatuz del Esche- here, between c. 13 and c. 14 of 17 Edw. 2.</i>		Distresses ... ..	Ditto.
1 & 2 Phil. & M.,	c. 12	Impounding distresses ...	Ditto.
17 Char. 2,	c. 7	Distresses ... ..	Ditto.
2 Wm. & Mary,	c. 5	Sale of distresses ... ..	Ditto.

II.—ACTS.

Number and Year.		Subject.	Extent of Repeal.
VII of 1847	...	Distresses for small rents in Calcutta ...	The whole.
IX of 1850	...	Extension of Act VII of 1847 ...	Section eighty-nine.
XXVI of 1864	...	Extending jurisdiction of Presidency Small Cause Courts.	Section four.

ACT II OF 1875.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor General on the 19th January 1875.)

*An Act to diminish the multitude and improve the quality of Law Reports, and to extend the area of their authority.*

WHEREAS it is expedient to diminish the multitude and expense of the law reports published in British India, and to improve their quality, and to extend the local limits of the authority of properly reported decisions of the High Courts of Judicature established under the twenty-fourth and twenty-fifth of Victoria, cap. 104 :

And whereas with a view to furthering these objects, the Governor General in Council proposes to authorize the publication of reports of cases decided by the said High Courts, to be called the Indian Authorized Law Reports ; It is hereby enacted as follows :—

Short title.

1. This Act may be called "The Indian Law Reports Act, 1875 :"



Local extent.

It extends to the whole of British India ;

Commencement.

And it shall come into force on such day as the Governor General in Council notifies in this behalf in the *Gazette of India*.

2. Every judgment delivered on or after such day by any of the said High Courts

Limits of authority of authorized reports extended.

(whether by a Judge sitting alone, or by a Division Court, or by a Full Bench) and reported in the said Indian Authorized Law

Reports, shall have the same authority in all subordinate Courts beyond the limits of the appellate jurisdiction of such High Court as, independently of this Act, it would have within such limits.

3. No Court shall be bound to hear cited, or shall receive or treat as an authority

Authority given only to authorized reports after passing of Act.

binding on it, the report of any case decided by any of the said High Courts on or after the said day, other than a report published under the authority of the Governor General in Council.

4. Save as provided by section two, nothing herein contained shall be construed to

Authority of judicial decisions.

give to any judicial decision any further or other authority than it would have had if this Act had not been passed.

### ACT III OF 1875.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor General on the 2nd February 1875.)

*An Act to correct a clerical error in the Repealing Act, 1874.*

Preamble.

FOR the purpose of correcting a clerical error in Act No. XVI of 1874 ; It is hereby enacted as follows :—

1. In the third column of the first Part of the schedule to the said Act, opposite to Amendment of Act XVI of 1874, schedule I, Part I. " V of 1874," for the word "two," the word "one" shall be, and be deemed to have always been, substituted.

## THE INDIAN MERCHANT SHIPPING ACT, 1875.

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ACT IV OF 1875.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor General on the 9th February 1875.)

An Act for the further amendment of Act No. I of 1859, and for other purposes

WHEREAS Act No. I of 1859 (for the amendment of the law relating to Merchant Seamen), section one hundred, provides that, in the cases of loss, abandonment, damage, or casualty therein mentioned, it shall be

Preamble.

lawful for the Local Government, if a formal investigation appears to it to be requisite or expedient, to appoint two persons to make the same, and declares that one of such persons shall be a Magistrate acting in or near the place where the investigation is made, and that the other may be any person conversant with maritime affairs :

And whereas it is expedient in many cases that such investigations shall be made by persons more in number and of more varied qualifications :

And whereas it is also expedient to provide efficient means for enforcing the attendance of witnesses in such investigations and in trials under Act No. XII of 1859 (*to make better provision for the trial of Pilots at the Presidency of Fort William in Bengal for breach of duty*) :

And whereas it is expedient to repeal Act No. XV of 1863 (*to amend Act I of 1859*) and to re-enact certain of its provisions with the amendments hereinafter appearing :

And whereas it is provided by Act No. X of 1841, sections two, fifteen, seventeen and twenty-three, that the persons guilty of the offences therein respectively mentioned shall be liable upon conviction by information by the Advocate General to the penalties therein respectively provided :

And whereas it is expedient to render the said penalties recoverable otherwise than on information by the Advocate General ;

It is hereby enacted as follows :—

## CHAPTER I.

### PRELIMINARY.

Short title.

1. This Act may be called "The Indian Merchant Shipping Act, 1875 ;"

Extent.

It extends to the whole of British India ;

Commencement.

And it shall come into force at once.

2. Sections one hundred, one hundred and one and one hundred and two of

Repeal of enactments.

Act I of 1859 and the whole of Act XV of 1863, are hereby repealed.

But every enquiry now pending, which has been commenced under any enactment so repealed, shall be deemed to have been commenced under this Act.

## CHAPTER II.

### INVESTIGATIONS INTO LOSSES OF SHIPS AND CHARGES AGAINST MASTERS, MATES OR ENGINEERS.

Notice of accidents to be given to Local Government.

3. In any of the cases following (namely) :—

(a) whenever any ship is lost, abandoned or materially damaged on or near the coasts of India ;

(b) whenever any ship causes loss or material damage to any other ship on or near such coasts ;

(c) whenever by reason of any casualty happening to or on board of any ship on or near such coasts, loss of life ensues ;

(d) whenever any such loss, abandonment, damage or casualty happens elsewhere to or on board any ship registered at any port or place in India, under the Merchant Shipping Act, 1854, or under Act X of 1841 ;

the master, pilot, harbour-master, or other person in charge of the ship, or, in cases under clause (b) of this section, of each ship, at the time of the loss, abandonment, damage or casualty, or, where any ship above referred to arrives in British India, the person then in charge of her, shall, on arriving in British India, give immediate notice of such loss, abandonment, damage or casualty to the nearest Magistrate, or, if he arrive at any port, then to such officer as the Local Government appoints in this behalf.

Any person bound to give notice under this section and wilfully failing to give the same shall be liable to fine not exceeding five hundred rupees, and, in default of payment, to simple imprisonment for a term which may extend to three months.

The Magistrate or officer receiving such notice shall, without delay, communicate the same to the Local Government.

4. If in any such case a formal investigation appears to the Local Government to be requisite or expedient, the Local Government (whether such Power to appoint special Court of Enquiry. notice be given or not) may appoint a special Court, consisting of not less than two nor more than four persons, to make such investigation, and may fix the place for making the same.

One of such persons shall be a Magistrate acting in or near the place where the investigation is made, another shall be some person conversant with maritime affairs. The other or others (if any) shall be conversant with either maritime or mercantile affairs.

5. Every Court having admiralty jurisdiction in India, and the principal Court of ordinary criminal jurisdiction at every port of British India where there is no Court having admiralty jurisdiction, is hereby authorized, at the instance of the Local Government, or of such officer as the Local Government may have empowered in this behalf, to investigate charges of incompetency or misconduct on the part of any Master, Mate or Engineer of any ship, who holds a certificate granted by the Board of Trade, or as to shipwreck or other casualties affecting ships.

Every such Court may, if it think fit, constitute as its assessor for the purposes of the investigation any person conversant with maritime affairs and willing to act as such assessor.

Such person shall attend during the investigation and deliver his opinion in writing to be recorded on the proceedings. But the decision of the case shall rest with the Court.

Communication to Court of grounds for charging Master, &c., with incompetency, &c.

6. If the Local Government has reason to think that there are grounds for charging any Master, Mate or Engineer holding a certificate granted by the Board of Trade with incompetency or misconduct, it shall transmit a statement of such grounds to the Court making the investigation.

7. If the investigation involves a charge of incompetency or misconduct against any person holding such certificate as aforesaid, the Court shall, if practicable, before commencing the investigation, cause the holder of such certificate to be furnished with a copy of the statement transmitted by the Local Government as aforesaid.

8. For the purpose of the investigation the special Court, so far as relates to compelling the attendance and examination of witnesses and the production of documents and the regulation of the proceedings, shall have the same powers as if such investigation were a proceeding relating to an offence or cause of complaint upon which the said Magistrate has power to convict.

9. If, in the course of an investigation under this Act by any of the Courts hereinbefore mentioned, it appears that there are grounds for charging with incompetency or misconduct any holder of such certificate as aforesaid not so charged by the Local Government, the Court may cause a statement of such grounds to be furnished to such holder, and may then commence an investigation into such charge of incompetency or misconduct.

10. For the purpose of such investigation such Court may summon the Master, Mate or Engineer to appear, and shall give him full opportunity of making a defence, either in person or otherwise, and may summon and examine witnesses.

11. The Court shall in all cases transmit to the Local Government a full report of the conclusions at which it has arrived.

12. If the Court decide that any such certificate as aforesaid shall be cancelled or suspended, it shall so state in open Court, at the conclusion of the case or as soon afterwards as possible.

13. When the Court decides to cancel or suspend a certificate, it shall send a full report upon the case with the evidence and the suspended or cancelled certificate through the Local Government to the Board of Trade.

Transmission of report and certificate to Board of Trade.

Preliminary to cancellation or suspension.

14. Provided that no certificate shall be cancelled or suspended—

(a) unless the person holding the certificate has, before the commencement of the investigation, been furnished with a copy of the statement of the case upon which the investigation has been ordered;

(b) if the Court be a Court of Admiralty or of ordinary criminal jurisdiction, unless the report be confirmed by the Local Government;

(c) if the Court be a Court of Admiralty or of ordinary criminal jurisdiction, attended by an assessor, unless the assessor expresses his concurrence in the report.

15. If any Court making an investigation under this Act thinks it necessary for obtaining evidence that any person should be arrested, it may issue a warrant for his arrest, and may, for the purpose of effecting such arrest, authorize any officer (subject nevertheless to any general or special instructions from the Local Government) to enter any vessel.

Any officer so authorized to enter a vessel may, for the purpose of enforcing such entry, call to his aid any officers of police or customs, or any other persons, and may seize and detain the vessel for such time as is reasonably necessary to effect the arrest; and every such officer or other person shall be deemed to be a public servant within the meaning of the Indian Penal Code, section one hundred and eighty-six.

No person shall be detained by virtue of this section for more than forty-eight hours.

16. Whenever in course of any investigation under this Act, it appears that any person has committed an offence punishable under any law in force in British India, the Court making the investigation may (subject to such rules consistent with this Act as the High Court may from time to time prescribe) cause him to be arrested, or commit him or hold him to bail to take his trial before the proper Court; and may bind over any person to give evidence at such trial, and may for the purposes of this section exercise all the powers of a Magistrate of the first class or of a Justice of the Peace:

Power to bind over persons to give evidence.

And whenever in the course of such trial the testimony of any witness is required in relation to the subject-matter, any deposition previously made by him in relation to the same subject-matter before any Court making investigations under this Act shall, if authenticated by the signature of the Magistrate or presiding Judge, be admissible in evidence on proof—

(a) that the witness cannot be found within the jurisdiction of the Court before which the trial is held; and

(b) that it was made in the presence of the person accused.

A certificate by the Magistrate or presiding Judge that the deposition was made in the presence of the accused shall, unless the contrary be proved, be sufficient evidence that it was so made.

17. All the foregoing provisions of this chapter, except such as require reports to and communications with the Board of Trade, or relate to the actual cancellation or suspension of certificates, shall be applicable also to charges of incompetency or misconduct against any Master, Mate or Engineer who holds a certificate granted by any Local Government.

Chapter II applied to charges against holders of certificates from Local Government.

### CHAPTER III.

#### SUSPENSION AND CANCELLATION OF CERTIFICATES GRANTED BY LOCAL GOVERNMENTS.

18. The Local Government may suspend or cancel the certificate (whether of competency or service) granted by such Local Government, or by any other Local Government, to any Master, Mate or Engineer, in the following cases; (that is to say)—

(a) If upon any investigation made under this Act, it is reported that the loss or abandonment of, or serious damage to, any ship, or loss of life, has been caused by his wrongful act or default, or the Master, Mate or Engineer is reported to be incompetent, or to have been guilty of any gross act of drunkenness, tyranny or other misconduct;

(b) If upon any enquiry made under the provisions of the Merchant Shipping Act, 1854, or the Merchant Shipping Amendment Act, 1862, or upon any enquiry made by a Naval Court constituted as is provided by any law for the time being in force, or upon any enquiry made by any Court or tribunal for the time being authorized in any British possession to enquire into charges of incompetency or misconduct on the part of Masters, Mates or Engineers of ships, it is reported that the loss or abandonment of, or serious damage to, any ship, or loss of life, has been caused by the wrongful act or default of the Master, Mate or Engineer; or that he is incompetent, or has been guilty of any gross act of drunkenness, tyranny or other misconduct:

(c) If he has been superseded by the order of any Admiralty Court, or of any Naval Court constituted as provided by the Merchant Shipping Act, 1854, or by any other law for the time being in force:

(d) If he is shown to have been convicted of any offence which, if committed in

(d) after conviction of any offence. British India, would be non-bailable, or, if committed in England, would be a felony:

Provided that no certificate shall be suspended or cancelled under clause (a) of this section unless the Local Government is satisfied that the holder of the certificate had before, or within a reasonable time after, the commencement of the investigation notice of the nature of the charge made and established against him.

The Local Government may, if it thinks the justice of the case requires it, re-issue and return any certificate which has been cancelled or suspended under this section, or shorten the time for which it has been suspended, or grant a new certificate of the same or any lower grade in place of any certificate which has been cancelled or suspended.

19. Every Master, Mate or Engineer whose certificate is cancelled or suspended under this chapter, shall deliver it to the Shipping Master, or to Master, &c., to deliver up certificate. such other person as the Local Government which cancelled or suspended the certificate directs, and in default shall, for each offence, incur a penalty not exceeding five hundred rupees.

20. If the Local Government which cancels or suspends a certificate of a Master, Mate or Engineer is not the Local Government that granted the certificate, the Local Government shall report the proceedings, and the fact of cancellation or suspension, to the Local Government which granted such certificate.

21. Every Local Government cancelling or suspending under this chapter the certificate of a Master, Mate or Engineer shall, as soon as may be practicable, report to the Board of Trade the fact of such cancellation or suspension.

Whenever it is reported to the Local Government that the loss or abandonment of, or serious damage to, any ship has been caused by the wrongful act or default of a Master, Mate or Engineer holding a certificate from the said Board, or that such Master, Mate or Engineer is incompetent or has been guilty of any gross act of drunkenness, tyranny or other misconduct, the Local Government, if it concur in such report, shall send a copy of the same to the Board of Trade.

22. Any Local Government may at any subsequent time revoke any order of cancellation or suspension which it may have made under this Act, or grant to any person whose certificate it has cancelled under this Act, a new certificate of the same or of any other grade.

Notice of every revocation and of every grant under this section shall, as soon as may be practicable, be reported to the Board of Trade.

23. Nothing in this Act affects the powers conferred by section two hundred and forty of the Merchant Shipping Act, 1854, or by section eighty of the said Act I of 1859, on Courts having admiralty jurisdiction in India.

The said powers may be exercised by the principal Court of ordinary criminal jurisdiction at any port in India where there is no Court having admiralty jurisdiction, if the Master, Mate or Engineer has received his certificate from any Local Government.

## CHAPTER IV.

## AGREEMENTS WITH SEAMEN.

24. The Master of every ship, except ships of a burden not exceeding three hundred tons employed only in the Home-trade, shall enter into an agreement with every seaman whom he carries to sea from any port in India as one of his crew, in the manner hereinafter mentioned.

25. Every such agreement shall be in a form sanctioned by the Governor General in Council, and shall be dated at the time of the first signature thereof, and shall be signed by the Master before any seaman signs the same, and shall contain the following particulars as terms thereof; (that is to say)—

(a) either the nature and, as far as practicable, the duration of the intended voyage or engagement, or the maximum period of the voyage or engagement and the places or parts of the world, if any, to which the voyage or engagement is not to extend;

(b) the number and description of the crew, specifying how many are engaged as sailors;

(c) the time at which each seaman is to be on board or to begin work;

(d) the capacity in which each seaman is to serve;

(e) the amount of wages which each seaman is to receive;

(f) a scale of the provisions which are to be furnished to each seaman; and

(g) any regulations as to conduct on board, and as to fines, short allowance of provisions, or other lawful punishments for misconduct, which have been sanctioned by Government as regulations proper to be adopted, and which the parties agree to adopt.

And every such agreement shall be so framed as to admit of stipulations to be adopted at the will of the master and seaman in each case (not being inconsistent with the provisions of this Act), as to advance of wages and supply of warm clothing, and may contain any other stipulations which are not contrary to law.

26. When it is agreed that the service of any lascar or other Native seaman shall end at any port not in India, the agreement shall, in addition to the particulars specified in section twenty-five, contain stipulations for providing for him fit employment on board some other vessel bound to the port at which he was shipped, or such other port as may be agreed on, or for providing for him a passage to some such port as aforesaid free of charge, or on such other terms as may be agreed on; and every such stipulation shall be signed by the owner of the vessel, or by the Master on his behalf.

EXPLANATION.—In this section the word ‘seaman’ includes also a Native of India carried to sea from any port in India as one of the crew of a ship.

27. If the Master of any ship belonging to the United Kingdom or any British possession has an agreement with his crew, made in due form according to the law of the place to which such ship belongs, or in which her crew were engaged, and engages a single seaman in any port in India, such seaman may sign the agreement so made, and it shall not be necessary for him to sign an agreement under this Act.

## CHAPTER V.

## MISCELLANEOUS.

Sections 3 to 27 to be taken as part of Act I of 1859.

28. Sections three to twenty-seven (both inclusive) shall be read with and taken as part of the said Act No. I of 1859.

Provisions as to examinations, &c., of Masters not to apply to certain ships.

29. Sections nine to sixteen (both inclusive) of the said Act No. I of 1859 shall not apply to ships registered under the said Act No. X of 1841 and trading between ports in India and the coasts of Arabia, when such ships are navigated and manned exclusively by Arabs, lascars, or other Asiatic masters and seamen.

Amendment of Act X of 1841, sec. 2, 15, 17 and 28.

30. In the said sections two, fifteen, seventeen and twenty-three of the said Act No. X of 1841, for the words “on information in any Court of Her Majesty or the East India Company by the Advocates General of the respective Presidencies,” “by information as afore-

said," "on information as aforesaid," "upon information as aforesaid," in each of the places where they occur, the following words shall be substituted (namely) :—"on conviction before a Justice of the Peace or a Magistrate of the first class."

31. The Court conducting a trial under the said Act No. XII of 1859, shall have the same powers to compel the attendance and examination of witnesses as are conferred by this Act on Courts making investigations under section four.

## ACT V OF 1875.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor General on the 9th February 1875.)

*An Act to remove doubts as to the rights and liabilities of certain Native Soldiers.*

WHEREAS doubts have arisen as to the rights and liabilities of certain Native Soldiers who have been enrolled without having been attested, and it is expedient to remove such doubts ; It is hereby enacted as follows :—

I. Every person who has for the space of six months been in the receipt of military pay and been borne on the rolls of any Regiment, Corps, or certain Native soldiers. Depôt, Ordnance Establishment, or Department of Her Majesty's Indian Army (of which the last pay-statement, if produced, shall be evidence), shall be deemed to have been duly enlisted, enrolled and attested, and shall not be entitled to claim his discharge on the ground of illegality or irregularity in his enlistment, enrolment or attestation, or on any other ground save such as may be recognised by the orders and customs of the service.

## ACT VI OF 1875.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor General on the 23rd February 1875.)

*An Act to secure the repayment of a Loan by the Government of India to Sir Jamsetjee Jeejeebhoy, Baronet.*

WHEREAS by Letters Patent of Her Majesty dated the sixth day of August 1858, and by warrant under the Queen's sign-manual, Her said Majesty conferred upon Sir Jamsetjee Jeejeebhoy, then of Bombay, Knight, but since deceased, the dignity of Baronet, to hold the same to him and the heirs male of his body :

And whereas by an Act of the Legislative Council of India numbered XX of 1860, and entitled "An Act for settling Promissory Notes of the Government of India producing an annual income of one lakh of Rupees and a Mansion-house and hereditaments called 'Mazagon Castle' in the Island of Bombay, late the property of Sir Jamsetjee Jeejeebhoy, Baronet, deceased, so as to accompany and support the title and dignity of a Baronet lately conferred on him and the heirs male of his body by her present Majesty Queen Victoria, and for other purposes connected therewith," certain officers therein mentioned were constituted Trustees for executing the powers and purposes of such Act :



And it was thereby enacted that, immediately after the passing of the said Act, promissory notes of the Government of India producing an annual income of one lākh of rupees should be transferred into the names of the said Trustees upon trust, amongst other things, from time to time to pay and apply the annual income of the said securities unto and for the benefit of the present Baronet, Sir Jamsetjee Jeejeebhoy, and the person who, as heir male of the body of the said first Baronet, should, for the time being, have succeeded to and be in the enjoyment of the title of Baronet conferred by the said Letters Patent as aforesaid, and in default of heirs male of the body of the said first Baronet to whom the same dignity of Baronet might descend, upon trust for the present Baronet, his executors, administrators and assigns :

Government Promissory Notes producing an annual income of one lākh vested in Trustees.  
Trusts of the income.

And it was by the said Act further enacted that, subject as therein mentioned, so long as the said dignity of Baronet should endure, and until there should be a failure of heirs male of the body of the said first Baronet to whom the said dignity might descend, neither the said present Baronet nor any of the heirs male of the body of the said first Baronet in whose favour trusts were thereinbefore declared of the annual income of the said securities, should convey, charge, or encumber the said securities, or any part thereof, or the annual income thereof, or of any part thereof, for any greater or larger estate or interest than during his natural life, and for such portion thereof only as he should continue to use the names of "Jamsetjee Jeejeebhoy," nor should have any power to discontinue or bar the estate of any person or persons for whose benefit trusts were declared by the said Act of the annual income of the said securities, or to prevent any such person or persons from succeeding to the same ; nor should the same be held to have vested in any such person as aforesaid for any greater estate or interest than during his life, and only during such portion thereof as he should continue to use the names of "Jamsetjee Jeejeebhoy," and every attempt to make any assurance contrary to the intention of the said Act was thereby declared to be void :

Alienation prohibited during the Baronetcy.

And whereas, immediately after the passing of the said Act, promissory notes of the Government of India producing an annual income of one lākh of rupees were transferred into the names of the said trustees upon the trusts aforesaid :

And whereas, since the said transfer, part of the said promissory notes, producing an annual income of five thousand rupees, has been paid off by the Government of India ; and the annual income of the promissory notes vested in the said trustees upon the trusts aforesaid was thereby reduced to ninety-five thousand rupees :

And whereas the said present Baronet has three sons only (namely), Manakjee Cursetjee Jamsetjee, Cowasjee Cursetjee Jamsetjee, and Jamsetjee Cursetjee Jamsetjee who is a minor :

And whereas the said present Baronet recently applied to the Government of India to advance and lend to him the sum of four and a half lākhs of rupees, to be applied to purposes beneficial to himself and his said sons, which the Government of India agreed to do upon having the repayment thereof with interest secured in manner hereinafter mentioned :

Agreement for loan.

And whereas, in pursuance of the said agreement, the sum of four and a half lākhs of rupees has been advanced and lent to the said present Baronet :

Advance of loan.

And whereas the said Manakjee Cursetjee Jamsetjee and Cowasjee Cursetjee Jamsetjee by themselves, and the said Jamsetjee Cursetjee Jamsetjee by his guardian, have agreed to the arrangement intended to be effected by this Act ;—

Concurrence of present Baronet's sons.

It is hereby enacted as follows :—

1. In consideration of the premises, and notwithstanding anything contained in the said recited Act, the Government of India shall withhold out of said sum of ninety-five thousand rupees, being the interest on the said promissory notes now vested in the said trustees, the annual sum of forty thousand rupees, during the term of seventeen years from the date of the passing of this Act, unless the said sum of four and a half lākhs of rupees with interest thereon at five per cent. per annum has been sooner discharged.

Withholding interest on notes in discharge of loan.

ACT VII OF 1875.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor General on the 23rd February 1875).

*An Act to regulate Fisheries in British Burma.*

WHEREAS the exclusive right of fishing in British Burma in such fisheries as are hereinafter mentioned belongs by the custom of the country to the Government:

And whereas it is expedient to provide for the protection of this right, and for conceding the enjoyment of it to the public or to individuals gratuitously, or in consideration of fees or rent, and subject to suitable restrictions and conditions;

It is hereby enacted as follows:—

*I.—Preliminary.*

- Short title. 1. This Act may be called "The Burma Fisheries Act, 1875:"
- Local extent. It extends to the territories for the time being under the administration of the Chief Commissioner of British Burma;
- Commencement. And it shall come into operation on the first day of April 1875.
- Interpretation-clause. 2. In this Act—
- "Fish." "Fish" includes also shell-fish:
- "Fishery means any collection of water, running or still, tidal or non-tidal, which is itself of a permanent nature, or is connected with some waters of a permanent nature, and in which fish or turtle may be found.
- "Fishery." It includes the sea:
- "To fish." "To fish" includes to catch turtle or collect their eggs; and
- "Fixed engine" means any fixed implement or engine for catching or for facilitating the catching of fish, and includes a net secured by anchors, or otherwise temporarily fixed to the soil.

*II.—Rights of Fishery.*

3. No right to fish in any fishery shall be deemed to have been acquired by the public or by any person, either previously to the passing of this Act or subsequently thereto, except in one of the modes herein-after described:

But nothing herein contained shall be held, nor shall the giving of any grant, lease, license or permission under this Act be held, to prevent the public from angling with a rod and line only in any fishery:

Provided that such angling may, in any case, with the previous sanction of the Chief Commissioner, be forbidden by a proclamation issued by the Deputy Commissioner of the District in which such fishery is situate for such time as may be fixed by such proclamation:

And nothing herein contained shall prejudice or derogate from any express grant of a right to fish heretofore made by the British Government.

4. The Deputy Commissioner of any District may, subject to such rules, conditions and restrictions as may be prescribed by the Chief Commissioner in this behalf, dispose of the right of fishing in any fishery situate within his District, or specially placed under his charge by the Chief Commissioner, in any one of the following modes, that is to say,

(a) he may declare such fishery open to the public, or to the inhabitants of any town or village, or to any other class of persons:

(b) he may lease the exclusive right of fishing in such fishery to any person; or

(c) he may, where he has not disposed of the right of fishing in any of the foregoing modes, grant licenses to any number of persons to use nets, traps and other implements for fishing in such fishery,

and (subject as aforesaid) he may declare that any fishery shall cease to be a fishery for the purposes of this Act.

All such declarations, leases and licenses made and granted by the British Government before this Act comes into operation and then in force shall be deemed to have been respectively made and granted under this section.

Declarations made before 1st April 1875.

5. All fees, rents and other moneys due to Government in respect of any lease, license or permission granted under this Act, may be recovered in the manner prescribed by the law for the time being in force for the recovery of arrears of revenue.

Recovery of fees, rents, &c.

### III.—Erection of Weirs.

6. No weir or other fixed obstruction, and no fixed engine tending to hinder the movements of fish, or to interfere with the flow of the water, or to impede navigation, shall be erected, placed, maintained, or used in any fishery, or in waters connected with any fishery, by a grantee or lessee, or by any other person whomsoever, without a special permission in that behalf under the hand of the Deputy Commissioner of the District in which such fishery is situate.

Weirs not to be erected without sanction of Deputy Commissioner.

### IV.—Penalties.

Penalties.

7. Any person who commits any of the following offences (namely)—

- (a) fishes in any fishery not having a right to fish therein,
  - (b) erects, places, maintains or uses any fixed obstruction or fixed engine in a fishery, or in waters connected therewith, without being specially permitted to do so under section six,
  - (c) puts or knowingly permits to be put, or causes or knowingly permits to flow, into any fishery, any solid or liquid matter to such an extent as to poison or kill, or to cause the water to poison or kill, fish,
  - (d) interferes with, or makes any demand in consideration of, the lawful use of the water of any fishery for purposes unconnected with the taking of fish,
- shall be punished, for a first offence, with imprisonment for a term not exceeding three months, or a fine not exceeding two hundred rupees, or both ;
- and, for a second offence, with imprisonment for a term not exceeding six months, or a fine not exceeding five hundred rupees, or both.

And any obstruction or engine erected, placed, maintained or used in contravention of section six, and any fish taken by means of such obstruction or engine, or otherwise in contravention of this Act, or of any rules made hereunder and for the time being in force, shall be forfeited.

Forfeiture of obstructions.

And such obstruction or engine may be removed or taken possession of by the Deputy Commissioner or such person as he empowers in this behalf.

Removal of obstructions.

And the expense (if any) of such removal may be recovered from the person erecting, placing, maintaining or using the obstruction or engine so removed, as if it was an arrear of revenue.

### V.—Subsidiary Rules.

8. The Chief Commissioner may, from time to time, with the previous sanction of the Governor General in Council, make rules for all or any of the following purposes :—

Power to make rules.

- (a) for the survey and demarcation of the limits of fisheries ;
- (b) for determining in which of the modes mentioned in section four, the right to fish in each fishery shall be disposed of ;
- (c) for regulating the conditions on which, and the procedure by which, fisheries may be opened to the public or granted or let on lease to individuals ;
- (d) for fixing the rates at which, and the conditions on which, licenses to use implements for fishing may be granted ;
- (e) for settling the terms and conditions on which permission to erect, place, maintain or use fixed obstructions and engines in fisheries or waters connected therewith may be granted ;

(f) for making and maintaining free gaps in weirs ;  
and generally to carry out the purposes of this Act.

9. The Chief Commissioner may, with the like sanction, in making any such rule, attach to the breach of it, in addition to any other consequences that would ensue from such breach, a punishment, on conviction before a Magistrate, not exceeding one month's imprisonment, or two hundred rupees fine, or both.

Publication of rules.

10 All such rules shall be published in the *British Burma Gazette*, and shall thereupon have the force of law.

## THE INLAND CUSTOMS ACT, 1875.

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## ACT VIII OF 1875.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor General on the 2nd March 1875).

*An Act for regulating Inland Customs Duties on Salt and Sugar, and  
for other purposes.*

WHEREAS it is expedient to consolidate and amend the law relating to the levy of inland customs-duties on salt and sugar, and to the import of salt, the export of sugar, and the manufacture of salt and

Preamble.

saltpetre, into, from and in the North-Western Provinces, the Panjáb, Oudh and the Central Provinces; It is hereby enacted as follows:—

## CHAPTER I.

### PRELIMINARY.

- Short title. 1. This Act may be called "The Inland Customs Act, 1875:" and shall come into force on the passing thereof.
- Commencement. This section, section two, and so much of this Act as refers to offences against any of its provisions or against any rules made hereunder, extend to
- Local extent. the whole of British India.
- The rest of this Act extends to the territories for the time being respectively subject to the Lieutenant-Governors of the North-Western Provinces and the Panjáb, and the Chief Commissioners of Oudh and the Central Provinces;
- Power to extend Act. And any portion of this Act other than the portions specified in the second clause of this section, may be extended, by order of the Governor General in Council published in the *Gazette of India*, to any part of British India other than the said territories.
2. The enactments specified in the schedule hereto annexed are repealed to the extent mentioned in the third column of the said schedule.
- Repeal of enactments. 3. In this Act, unless there be something repugnant in the subject or context—
- Interpretation-clause. "the said territories" means the territories mentioned in the third clause of the first section:
- "Collector" means a Collector or Assistant Commissioner of Inland Customs, and includes any person invested by the Local Government with the powers of a Collector under this Act:
- "Customs-officer" means any officer of Inland Customs, and includes any person invested by the Local Government with any of the powers of a customs-officer under this Act:
- "Sugar." "Sugar" includes also saccharine produce, sweetmeats and all other articles of which sugar forms a principal ingredient:
- "Saltpetre" includes rasí, sajjí and all other substances manufactured from saline earth, and *khárt-nán*, or Glauber's salt, and every form of sulphate or carbonate of soda; and
- "Manufacture of salt" includes the separation or purification of salt obtained in the manufacture of saltpetre, the separation of salt from earth or other substance so as to produce alimentary salt, and the excavation or removal of natural saline deposits or efflorescence.

## CHAPTER II.

### OF THE IMPORT OF SALT, AND EXPORT OF SUGAR.

- Regulation of the import of salt, and export of sugar. 4. No salt shall be imported into the said territories, and no sugar shall be exported therefrom, except subject to the provisions, payments and rules prescribed by or under this Act.
- Power to levy duties. 5. The Governor General in Council may from time to time by rule order the levy of duties not exceeding the following:—

*Per maund of three thousand two hundred tolas.*

(a.) On salt imported into the said territories ...	Three rupees,
(b.) On refined sugar exported from the said territories ...	One rupee,
(c.) On unrefined sugar exported from the said territories ...	Six annas;

and in calculating the amount of any such duty, fractions of quarter maunds may be reckoned as quarter maunds.

The Governor General in Council may from time to time reduce or remit any duty imposed under this section.

The Governor General in Council may, for the purposes of this section, define by rule what shall be deemed refined sugar and what shall be deemed unrefined sugar.

6. In order to facilitate the collection of duties imposed under section five, the Governor General in Council may by rule define a zone of country not exceeding fifteen miles in breadth along any portion of the frontier of the said territories, and at such distance within the frontier as he deems expedient,

and may extend such zone so as to include any portion of a railway or canal or navigable river entering the same, and the place where dutiable goods are loaded or unloaded into wagons or boats for the purpose of entering or leaving the zone,

and may within such zone establish a chain of customs-posts extending along such zone.

And the establishment of such chain shall be deemed a public purpose within the meaning of the Land Acquisition Act, 1870.

A zone of country defined, and a chain of customs-posts established, under this

"Customs-zone."

"Customs-line."

section, are hereinafter termed respectively a "customs-zone" and a "customs-line."

7. When a customs-zone has been defined and a customs-line established under section six along any portion of the frontier of the said territories, the following results shall ensue (namely)—

(a) salt crossing such portion of the frontier shall be deemed to have been imported when it enters the customs-zone, and not before :

(b) sugar shall be deemed to be exported when it is brought within half a mile of the inner face of the customs-line, and not before :

(c) the Governor General in Council may by rule prohibit any person absolutely, or subject to such conditions as the Governor General in Council thinks fit, from having in his possession any salt within the limits of the customs-zone :

(d) the Governor General in Council may, by notification or by the erection of a barrier or otherwise, prohibit or prevent the passage of traffic of any description across the customs-line, except at such points as the Commissioner of Inland Customs may determine,

and may by rule control and regulate the passage of traffic at such points, and provide for the searching of all persons and things crossing, or being taken across, the customs-line.

8. The Governor General in Council may by rule direct that the duty leviable under section five, clause (a), shall be levied by way of a milnegerate on—

(a) salt imported from the Presidency of Bombay into any part of the territories under the administration of the Chief Commissioner of the Central Provinces, and

(b) salt which, having been so imported, is afterwards moved from one place to another :

And may in like manner fix, for the purposes of this section, the rate per maund per mile which shall be so levied.

9. The Governor General in Council may by rule prescribe the manner, time, and place in and at which, and the persons by whom, the duties leviable under this chapter shall be collected, and the dutiable goods be permitted to be imported and exported.

When the rules made under this section allow dutiable goods to be imported or exported without prepayment of duty, all duty payable on such goods so imported or exported shall be deemed to be a first charge on the same, and such goods may be stopped and detained by a customs-officer until the duty is paid.

If such duty is not paid within such period as may be fixed by such rules, the goods in respect of which such duty is payable may be sold by public auction, and the proceeds of the sale shall be applied, first, in discharging the duty payable in respect of such goods, and then in defraying freight and other charges to which they are liable, and the surplus (if any) shall, if not claimed by the owner within two months, be forfeited to Her Majesty.

# CHAPTER III.

## OF THE MANUFACTURE OF SALT AND REFINING OF SALTPETRE.

Power of Governor  
General in Council

to regulate manufacture  
and refining of salt and  
saltpetre;

to fix fees for licenses;

10. The Governor General in Council may from time to time by rule—

(a) prohibit absolutely, or subject to such conditions as he thinks fit, the manufacture of salt or the manufacture or refining of saltpetre throughout the whole or any portion of the said territories;

(b) fix fees for the following licenses not exceeding in the case of each such license the amount hereinafter mentioned:—

	Rs.
License to manufacture saltpetre	2
License to manufacture and refine saltpetre and to separate and purify salt in the process of such manufacture and refining	100
License to manufacture <i>khārt-nūn</i>	25
License to manufacture other saline substances	2;

(c) impose a duty not exceeding three rupees per maund of three thousand two hundred tolas on salt manufactured in the said territories, and to impose a duty on manufacture of salt; determine the manner, time, and place in and at which, and the persons by whom, such duty shall be collected;

to reduce or remit duties;

(d) reduce or remit any duty so imposed;

(e) define an area to regulate possession of salt in vicinity of saltpetre-manufactories; nearest point of any place in which salt is stored or sold by or on behalf of Government, or of any manufactory and its appurtenances in or on which saltpetre is manufactured or refined, and regulate the possession, storage and sale of salt within such area;

to regulate possession of salt in vicinity of places where salt is manufactured.

(f) define an area round any other place in which salt is manufactured, and regulate the possession, storage and sale of salt within such area.

# CHAPTER IV.

## OF OFFENCES AGAINST THE INLAND CUSTOMS REVENUE.

Penalty for contraven-  
tion of Act or rules.

11. Whoever commits any of the following offences—

(a) does anything in contravention of this Act or of any rule made hereunder;

(b) evades payment of any duty or charge payable under this Act or any such rule; or

(c) attempts to commit or abets within the meaning of the Indian Penal Code the commission of any of the offences mentioned in clauses (a) and (b) of this section,

shall for every such offence be punishable with a fine not exceeding five hundred rupees, or with imprisonment for a term not exceeding six months, or with both,

and the convicting Magistrate, on the application of the Collector or customs-officer, may declare to be confiscated all works, materials, and implements constructed or prepared for the purpose of manufacturing or refining salt or saltpetre contrary to the provisions of this Act or any such rule.

12. Any person convicted of an offence under section eleven, after having been previously convicted of an offence under that section or any enactment hereby repealed,

shall be punished with imprisonment which may extend to six months, in addition to the punishment which may be inflicted for a first offence under section eleven,

and every such person shall, upon every subsequent conviction of an offence under section eleven, be liable to imprisonment for a term which may extend to six months, in addition to any term of imprisonment to which he was liable at his last previous conviction.

13. A charge of an offence under section eleven shall not be entertained except on the complaint of the Collector or other customs-officer not inferior in rank to a Sub-Assistant Patrol,

Charge to be preferred  
by customs officer.



Limitation of time for complaint.

and no such complaint shall be admitted unless it be preferred within six months after the commission of the offence to which it refers.

Jurisdiction.

An offence under section eleven shall be tried by a Magistrate exercising powers not less than those of a Magistrate of the second class.

Confiscation of articles in respect of which offence committed.

to confiscation.

14. All salt, sugar, or saltpetre in respect of which any offence mentioned in section eleven has been committed, together with the vessels, packages, or coverings in which such salt, sugar, or saltpetre is contained, and the animals and conveyances used in carrying it, shall be liable

When the article seized exceeds five sers in weight, the Commissioner of the Division may, if satisfied on the report of any customs-officer, or on such enquiry as he deems fit to make, that such offence has been committed, declare such article to be confiscated, or impose such lesser penalty in lieu of confiscation as to him may seem fit.

If the quantity seized does not exceed five sers, the Collector shall possess the same powers in regard to its disposal which by this section are conferred on Commissioners of Division in regard to quantities exceeding five sers, and may also confiscate the vessel, package or covering in which such article is contained.

Whenever a Commissioner of Division declares under this section any article to be confiscated, he may also declare to be confiscated any vessel, package or covering in which such article is contained, and any animal or conveyance used in carrying it.

15. The Governor General in Council may from time to time by rule direct that any customs-officer not inferior in rank to a Sub-Assistant Patrol, if satisfied in such manner as such rule may prescribe that any offence mentioned or referred to in section eleven has been committed in respect of any dutiable article, shall, instead of preferring a complaint before a Magistrate or instituting proceedings with a view to confiscation, impose as a penalty an additional duty on such article not exceeding the duty paid or leviable thereon under chapter II of this Act.

The imposition of every such penalty shall be at once reported, if the article in respect of which the offence has been committed exceeds five sers, to the Commissioner of Division, and if such article does not exceed five sers, to the Collector,

and shall require the sanction of the Commissioner or Collector to whom it is so reported.

16. All zamindars and other proprietors of land or their agents, who wilfully connive at any offence mentioned or referred to in section eleven, shall for every such offence be punishable by any Magistrate exercising powers not less than those of a Magistrate of the second class, with fine not exceeding five hundred rupees, or with imprisonment for a term not exceeding six months, or with both.

Punishment for connivance at offences mentioned in section 11.

## CHAPTER V.

### OF THE POWERS OF STOPPAGE, SEIZURE, SEARCH AND ARREST.

Power to detain suspected person and to seize goods liable to confiscation.

17. Any customs-officer may stop and detain any person whom he has reasonable ground to suspect of being liable to punishment under this Act;

and may seize any salt or sugar in respect of which there is reasonable ground to believe that any offence mentioned or referred to in section eleven has been committed or that any duty is payable, together with the vessels, packages or coverings in which such salt or sugar is contained, and the animals and conveyances used in carrying it.

18. Any customs-officer may arrest any person whom he has reasonable ground to suspect of having committed any such offence as last aforesaid.

Power to enter and search place of illicit manufacture.

19. Whenever any customs-officer not inferior in rank to a Sub-Assistant Patrol, has reason to believe that salt or saltpetre is being unlawfully manufactured, refined or stored,

such officer shall first record in writing (so far as may be practicable), (a) the name, residence and calling of the informant (if any); (b) the locality and description of the house, boat or place where the officer believes the salt or saltpetre is being manufactured, refined or stored; (c) the name of the person for or by whom the salt or saltpetre is manufactured, refined or stored; and (d) the supposed quantity and description of the salt or saltpetre, with the grounds of believing the same to be unlawfully manufactured, refined or stored, and may then summon in writing the officer in charge of the police-station within whose jurisdiction the house, boat or place to be searched is situate to attend him:

and may then, between sunrise and sunset (but always in the presence of an officer of police not inferior in rank to a head constable), enter and search any house, boat or place in which there is reason to believe that salt or saltpetre is being so manufactured, refined or stored,

and, in case of resistance, may break open any door, and force and remove any other obstacle to such entry,

and may seize and carry away all salt and saltpetre so unlawfully manufactured, refined or stored, and all materials used in the manufacture or refinement of such salt or saltpetre,

and may also arrest the occupier of the said house, boat or place, together with all persons concerned in the manufacture or refinement or storing of such salt or saltpetre, or in the concealing thereof.

If the place so entered is an apartment in the actual occupancy of a woman, who, according to the customs of the country, does not appear in public, the officer entering the same shall be guided by the rules prescribed in the Code of Criminal Procedure, section 384.

Before conducting a search under this section, the officer conducting it shall call upon two or more respectable inhabitants (if any) of the locality in which the house, boat or place to be searched is situate, to attend and witness the search, and the search shall be made in the presence of such inhabitants (if any), and also (if practicable) of the occupant of the house, boat or place searched.

Whenever it is necessary to cause a woman to be searched, the search shall be conducted with strict regard to the habits and customs of the country.

20. Any officer in charge of a police-station, who, on application in writing made

Failure of police-officer by a customs-officer to attend for any of the purposes specified in to attend. section nineteen, fails so to attend or to depute a subordinate officer not inferior in rank to a head constable so to attend, shall for every such offence be punished with fine not exceeding five hundred rupees.

Report of arrest, seizure or search. 21. Whenever a customs-officer under the rank of Collector,

arrests any person under this Act,

or seizes any article as liable to confiscation under this Act,

or enters any house, boat or place for the purpose of searching for any such article,

he shall (unless empowered under the next succeeding clause of this section), within forty-eight hours next after such arrest, seizure or entry, make a full report of all the particulars of such arrest, seizure or entry to his official superior for the information of the Collector.

Every officer making any arrest under this section, or his official superior, shall, if generally empowered to do so by the Collector, either send with all convenient despatch the person arrested to the Magistrate having jurisdiction to deal with the case, or order the discharge of such person.

And every officer of police attending any search made under section nineteen shall report the same to his official superior.

22. Whenever the Collector is informed of the seizure of any article exceeding five

Procedure in respect of sers in quantity, as liable to confiscation under this Act, he shall, articles seized. with all convenient despatch, report the circumstances of the case to the Commissioner of the Division, who may thereupon proceed under section fourteen.

If the quantity seized does not exceed five sers, he may dispose of the case himself under the said section.

Procedure on detainer of article subject to additional duty.

23. Any article in respect of which a penalty is imposed under section fifteen may be detained pending the receipt of the order of the Commissioner of the Division or Collector on the report required by the same section.

Provided that, if the owner of any article so detained deposits the amount of such penalty with, and pays all ordinary duty and charges payable on such article to, the customs-officer detaining the same, such article shall be at once released.

When an article is so detained, it shall, on the receipt of the said order, be dealt with in accordance with the rules made in this behalf under section twenty-seven.

When an article has been released under the second clause of this section, and the Commissioner or Collector reduces, or declines to sanction, the penalty imposed in respect of such article, the amount refundable to the owner shall be paid to him on his applying therefor to the Collector within six months, to be computed (where the order has been made by the Commissioner) from the day on which the Collector has received such order, and (where the order has been made by the Collector) from the date of such order.

When any penalty the amount of which has been deposited under the second clause of this section, is sanctioned,

or when any sum refundable under this section has not been claimed within the said period of six months,

the amount so in deposit or the sum so refundable shall be forfeited to Her Majesty unless the Commissioner of Inland Customs otherwise directs.

24. Whenever the Collector is informed of the arrest of any person, he shall (unless such person has been dealt with under the penultimate clause of

Procedure in respect of person arrested.

the case, or order the immediate discharge of such person.

Officers of police and land-revenue to assist customs-officers.

section twenty-one), either send, with all convenient despatch, the person arrested to the Magistrate having jurisdiction to deal with

25. All officers of police and officers of Government engaged in the collection of land-revenue, are empowered and required to assist the customs-officers in the execution of this Act.

26. Any customs-officer who,

Vexatious search, seizure, &c., by customs-officer.

(a) without reasonable ground of suspicion, searches or causes to be searched any house, boat or place ;

(b) vexatiously and unnecessarily seizes the moveable property of any person, on pretence of seizing or searching for any article liable to confiscation under this Act ;

(c) commits as such officer any other act to the injury of any person, when such officer has not reason to believe that such act is required for the execution of his duty,

shall for every such offence be punishable by a Magistrate exercising powers not less than those of a Magistrate of the second class, with fine not exceeding five hundred rupees.

Any person wilfully or maliciously giving false information and so causing a search to be made under this Act shall be punishable by a Magistrate exercising the same powers with fine not exceeding five hundred rupees, or with imprisonment for a term not exceeding two years, or with both.

Power to regulate seizures and disposal of things seized.

27. The Governor General in Council may make rules to regulate the seizure, disposal, and destruction of things liable to be seized under this Act.

Such rules may, among other matters, provide—

(a) that the owner or person having the charge of any animal seized and detained shall provide from day to day for its keep while detained, and that, if he omits to do so, such animal may be sold by public auction, and the expences (if any) incurred on account of it defrayed from the proceeds of the sale :

(b) that when anything is seized and an order for its release is subsequently passed and the owner does not within a period to be fixed by such rules appear to claim such thing and tender the duties, penalties and charges (if any) due in respect thereof, it may be sold by public auction, and such duties, penalties and charges defrayed from the proceeds of the sale :

(c) that the surplus-proceeds of a sale under clause (a) or clause (b) of this section shall, if not claimed by the owner of the thing seized within a period to be fixed by such rules, be forfeited to Her Majesty.

## CHAPTER VI.

### MISCELLANEOUS.

Power to prohibit import, export, and transit of salt or sugar.

28. The Governor General in Council may, from time to time, by rule, prohibit absolutely, or subject to conditions, the transit of salt or of sugar into, out of, or over, the said territories or any part thereof.

Except in the case of a prohibition under this section, nothing in this Act shall affect the importation of salt or exportation of sugar into or from any of the said territories, from or into any other of the said territories, or the Lower Provinces of the Presidency of Fort William.

Further matters for which Governor General may make rules. 29. In addition to the rules which the Governor General in Council is hereinbefore empowered to make, he may from time to time make rules to regulate the following matters, namely :

(a) the persons by whom, and the time, place and manner at or in which, anything to be done under this Act shall be done ;

(b) the cases in which, and the officers to whom, and the conditions subject to which, orders given by customs-officers under this Act shall be appealable ;

(c) the fee to be charged on account of any license, pass, certificate, *dakhilā*, *nawāna* or other such document issued under this Act ;

and generally to carry out the provisions herein contained.

30. All rules made under this Act must be consistent herewith, and shall be published in the *Gazette of India*, and shall thereupon have the force of law.

31. Subject to the provisions herein contained and to any rules for the time being in force made by the Governor General in Council, the Local Government may invest any person with the powers of a Collector under this Act, or with all or any of the powers hereinbefore conferred on customs-officers.

32. All duties now leviable on salt or sugar imported into or exported from, or moved through, or manufactured in, the said territories, shall, until otherwise directed by the Governor General in Council, be deemed to be leviable under this Act.

33. All rules now in force which might have been made under this Act if it had been in force, shall be deemed to have been issued hereunder, and the existing customs-line shall be deemed to have been defined and protected hereunder.

# SCHEDULE.

## A.—Acts.

Number and Year.	Title.	Extent of Repeal.
XIV of 1843 ...	An Act for regulating the levy of Customs Duties, and the manufacture of Salt in the North-Western Provinces of the Presidency of Bengal.	So much as has not been repealed.
XXXVI of 1855 ...	An Act to empower Officers of Customs and Land Revenue to search Houses and other enclosed places for contraband Salt in the North-Western Provinces.	The whole.
I of 1860 ...	An Act to empower the Governor General in Council to increase the rate of Duty on Salt imported into the North-Western Provinces of the Presidency of Bengal.	So much as has not been repealed.
XVII of 1861 ...	An Act to amend Act XIV of 1843 (for regulating the Customs Duties in the North-Western Provinces).	So much as has not been repealed.
XXXI of 1861 ...	An Act to regulate the manufacture of Salt-petre and the sale of Salt reduced in the refinement thereof.	The whole, but so far only as regards the said territories.

## SCHEDULE.—(Continued.)

## A.—Acts.—(Continued.)

Number and Year.	Title.	Extent of Repeal.
XIX of 1862 ...	An Act to extend to the Province of Oude certain provisions of Acts XIV of 1843 and XXXVI of 1855, relating to the manufacture of contraband Salt, and to amend the last-named Act.	The whole.
VII of 1864 ...	An Act for regulating the importation and manufacture of Alimentary Salt in the Territories administered by the Chief Commissioner of the Central Provinces.	So much as has not been repealed.
XXXIII of 1867 ...	An Act to amend Act No. XXXI of 1861.	The whole.
XXV of 1869 ...	An Act to provide Rules for the manufacture, storing and sale of Alimentary Salt in the North-Western Provinces, the Panjáb, Oudh and the Central Provinces, and for other purposes.	The whole.
XXV of 1872 ...	An Act to give the force of law to certain Rules relating to Salt in the Panjáb.	The whole.
X of 1874 ...	An Act to amend the Law relating to Salt.	Sections three and four.
XV of 1874 ...	Laws Local Extent Act ...	So far as it relates to Bengal Regulation I of 1838.

## B.—Bengal Regulations.

XX of 1817 ...	A Regulation for reducing into one Regulation, with Amendments and Modifications, the several Rules which have been passed for the Guidance of Darogahs and other subordinate Officers of Police; for modifying the existing rules concerning the Resistance or Evasion of Criminal Process, and for requiring further aid to the Police in certain cases, from Proprietors and Farmers of Land and their Local Managers, as well as from the Munduls and other Heads of Villages.	Section twenty-nine clauses <i>fifth, sixth seventh, and eighth.</i>
X of 1819 ...	A Regulation for reducing into one Regulation, with Alterations and Amendments, the Rules at present in Force respecting the Manufacture, Adulteration, Importation, Transportation, and sale of Salt.	So much as has not been repealed.
X of 1826 ...	A Regulation for removing Doubts as to the Application of Section L, Regulation X, 1819, to the District of Goruckpore: for prohibiting the Manufacture within any of the Districts of Bengal, Behar and Orissa of Noon-chye, or any Description of Saline Substances used as a condiment with Food, excepting on Account of, or with the Permission of, Government: and for providing for the Retail Sale of Salt by Government Officers in certain Cases.	So much as has not been repealed.

SCHEDULE.—(Concluded.)

B.—Bengal Regulations.—(Concluded.)

Number and Year.	Title.	Extent of Repeal.
IV of 1832 ..	A Regulation for declaring and explaining the Meaning and Intention of Section XLII, Regulation X, 1819.	The whole.
I of 1833 ...	A Regulation for vesting in the Sudder Board of Revenue at Allahabad the Superintendence of the Customs and Town Duties in the territories to which the Revenue Jurisdiction of that Board extends.	The whole.

ACT IX OF 1875.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor General on the 2nd March 1875.)

*An Act to amend the Law respecting the age of majority.*

**Preamble.** WHEREAS, in the case of persons domiciled in British India, it is expedient to prolong the period of nonage, and to attain more uniformity and certainty respecting the age of majority than now exists; It is hereby enacted as follows:—

**Short title.**

1. This Act may be called “The Indian Majority Act, 1875 :”

**Local extent.** It extends to the whole of British India, and, so far as regards subjects of Her Majesty, to the dominions of Princes and States in India in alliance with Her Majesty;

**Commencement and operation.** and it shall come into force and have effect only on the expiration of three months from the passing thereof.

2. Nothing herein contained shall affect—

- (a) the capacity of any person to act in the following matters (namely),—  
Marriage, Dower, Divorce, and Adoption;
- (b) the religion or religious rites and usages of any class of Her Majesty's subjects in India, or
- (c) the capacity of any person who before this Act comes into force has attained majority under the law applicable to him.

3. Subject as aforesaid, every minor of whose person or property a guardian has been or shall be appointed by any Court of Justice, and every minor under the jurisdiction of any Court of Wards, shall, notwithstanding anything contained in the Indian Succession Act (No. X of 1865) or in any other enactment, be deemed to have attained his majority when he shall have completed his age of twenty-one years and not before :

Subject as aforesaid, every other person domiciled in British India shall be deemed to have attained his majority when he shall have completed his age of eighteen years and not before.

4. In computing the age of any person, the day on which he was born is to be included as a whole day, and he shall be deemed to have attained majority, if he falls within the first paragraph of section three,

at the beginning of the twenty-first anniversary of that day, and if he falls within the second paragraph of section three, at the beginning of the eighteenth anniversary of that day.

*Illustrations.*

(a) Z is born in British India on the first day of January, 1850, and has a British Indian domicile. A guardian of his person is appointed by a Court of Justice. Z attains majority at the first moment of the first day of January, 1871.

(b) Z is born in British India on the twenty-ninth day of February, 1852, and has a British Indian domicile. A guardian of his property is appointed by a Court of Justice. Z attains majority at the first moment of the twenty-eighth day of February, 1873.

(c) Z is born on the first day of January, 1850. He acquires a domicile in British India. No guardian is appointed of his person or property by any Court of Justice, nor is he under the jurisdiction of any Court of Wards. Z attains majority at the first moment of the first day of January, 1868.

## THE HIGH COURTS' CRIMINAL PROCEDURE ACT, 1875.

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ACT X OF 1875.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor General on the 9th March 1875.)

*An Act to regulate the Procedure of the High Courts in the exercise of their original criminal jurisdiction.*

**Preamble.** WHEREAS it is expedient to consolidate and amend the law relating to the procedure of the High Courts in the exercise of their original criminal jurisdiction; It is hereby enacted as follows :—

CHAPTER I.

PRELIMINARY.

- Short title. 1. This Act may be called "The High Courts' Criminal Procedure Act, 1875 :"
- Local extent. It extends to the whole of British India ;
- Commencement. And it shall come into force on the first day of May 1875.
2. The enactments mentioned in the schedule hereto annexed are repealed to the extent mentioned in the third column of the said schedule, but not so as to revive any practice thereby abolished.
- Repeal of enactments. And all rules made under any of the said enactments shall be deemed to have been made under this Act, so far as they are consistent herewith.
3. In this Act, unless there be something repugnant in the subject or context—
- Interpretation-clause. "High Court" includes all High Courts established or to be established under the twenty-fourth and twenty-fifth of Victoria, Chapter 104, the Chief Court of the Panjáb and such other Courts as the Governor General in Council may, from time to time, declare to be invested with the powers of a High Court under this Act :
- "Chief Justice." "Chief Justice" includes also the Senior Judge of a Chief Court :
- "Advocate General." "Advocate General" includes also a Government Advocate :
- "Clerk of the Crown" includes any officer specially appointed by the Chief Justice to discharge the functions given by this Act to the Clerk of the Crown ; and
- "Clerk of the Crown." "Magistrate" includes also a Police Magistrate in the Towns of Calcutta, Madras and Bombay :
- "Magistrate." "European British Subject" means—
- "European British Subject." (a) all subjects of Her Majesty born, naturalized or domiciled in the United Kingdom of Great Britain and Ireland or in any of the European, American or Australian colonies or possessions of Her Majesty, or in the colonies of New Zealand, the Cape of Good Hope and Natal ;
- (b) the children and grandchildren of any such person by legitimate descent :
- "Prosecutor." "Prosecutor" includes every person conducting a prosecution on behalf of Her Majesty :
- "Offence." "Offence" denotes anything made punishable by any law for the time being in force ; and words which refer to acts done extend also to illegal omissions.

## CHAPTER II.

## OF SESSIONS.

4. For the exercise of its original criminal jurisdiction, every High Court shall hold sittings on such days and at such convenient intervals as the Chief Justice of such Court from time to time appoints.
- Time of holding sittings.
5. The High Court shall hold its sittings at the place at which it now holds them, or at such other place (if any) as the Governor General in Council in the case of the High Court at Fort William, and as the Local Government in the case of the other High Courts, may direct. But it may, from time to time, in the case of the High Court at Fort William, with the consent of the Governor General in Council, in all other cases, with the consent of the Local Government, hold sittings at such other places within the local limits of its appellate jurisdiction as the High Court appoints.
- Place of holding sittings.
- Such officer as the Chief Justice directs shall give notice beforehand in the local official Gazette of all sittings intended to be held for the exercise of the original criminal jurisdiction of the High Court.
- Notice of sittings.

## CHAPTER III.

## OF PROCEDURE ON COMMITMENTS.

6. The provisions of this Act shall apply to all criminal cases triable by the High Court.
7. When any person is committed for trial before a High Court, the Clerk of the Crown, or if there be not a Clerk of the Crown, a Judge of the High Court, shall, on receipt of the charge, peruse and consider it, and may, if it appear necessary or expedient so to do, alter or redraw the same, having regard to the rules as to the form of charges contained in the Code of Criminal Procedure.
- Consideration and amendment of charge.
8. If a prisoner is committed to the Court without any charge at all, the Clerk of the Crown, or, if there be not a Clerk of the Crown, a Judge of the High Court, may draw up a charge, having regard to the rules referred to in section seven. If a prisoner is committed upon a charge which the Court, upon reference to the proceedings before the committing Magistrate, considers improper, the Court may draw up a charge for any offence or offences which it considers to be proved by the evidence taken before the committing Magistrate.
- How Court may deal with charge.
9. Any accused person may apply to the Court for an amendment of the charge made against him; and in considering whether any error in a charge did in fact mislead the accused person, the Court shall take into account the fact that he did or did not make such an application.
- Prisoner may apply for amendment.
10. The Court may, upon the application of the accused person, or of the prosecutor, or upon its own motion, amend or alter any charge at any stage of the proceedings before the verdict of the jury is delivered. Such amendment shall be explained to the accused person.
- Court may amend charge.
11. If the amendment or alteration is such that proceeding immediately with the trial is not likely, in the opinion of the Court, to prejudice the accused person in his defence, it shall be at the discretion of the Court, after making such amendment or alteration, to proceed with the trial as if the amended charge had been the original charge.
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12. If the amendment or alteration is such that proceeding immediately with the trial is likely, in the opinion of the Court, to prejudice the accused person in his defence, the Court may either direct a new trial, or suspend the trial for such period as may be necessary to enable the accused person to make his defence to the amended or altered charge; and, after hearing his defence, the Court may, if it thinks fit, further adjourn the trial.
- When new trial may be directed or trial suspended.

to admit of the appearance of any witness whose evidence the Court may consider to be material to the case, or whom the accused person may wish to be summoned in his defence.

13. The charge, with such alterations (if any) as may have been made therein, shall be recorded in the High Court, and a copy of such charge shall be given to the person gratis, if he demands it.

The person charged shall also be entitled to a copy of his own examination before the committing Magistrate, and to copies of the examinations of witnesses upon whose depositions he has been committed, and of all documents read and made exhibits as part of such depositions by the committing Magistrate, if the person charged demands them a reasonable time before the case comes on for trial and pays for the same a reasonable sum not exceeding one anna for each folio of ninety words.

The Court may, for any special reason, remit any such payment.

14. When any charge, or portion of a charge, recorded as aforesaid appears to a Judge of the High Court, at any time before the commencement of the trial of the person charged, to be clearly unsustainable, such Judge may make on the charge an entry to that effect.

Such entry shall have the effect of staying proceedings upon the charge or portion of the charge (as the case may be), but shall not operate as an acquittal of the person charged.

Prosecutor and accused person may recall wit-

15. In all cases of amendment or alteration of a charge during the trial, the prosecutor and accused person shall be allowed to recall and examine any witness who may have been examined.

16. If the offence stated in the amended or altered charge be one for the prosecution of which previous sanction is necessary, the case shall not be proceeded with until such sanction is obtained; unless sanction has been already obtained for a prosecution on the same facts as those on which the amended or altered charge was founded.

### *Joinder of Charges.*

17. There must be a separate charge for every distinct offence of which any person is accused, and every such charge must be tried separately, except in the cases hereinafter excepted.

### *Illustration.*

A is accused of a theft on one occasion, and of causing grievous hurt on another occasion. A must be separately charged and separately tried for the theft and the causing grievous hurt.

18. When a person is accused of more offences than one of the same kind, committed within one year of each other, he may be charged and tried at the same time for any number of them not exceeding three.

**EXPLANATION.**—Offences are said to be of the same kind under this section if they fall within the provisions of section twenty.

19. I.—If in one series of acts, so connected together as to form the same transaction, more offences than one are committed by the same person, he may be charged with and tried for every such offence at the same time.

II. If the acts alleged constitute an offence falling within two or more separate definitions of any law in force for the time being, by which offences are defined or punished, the person accused of them may be charged with each of the offences so committed; but he must not receive a more severe punishment than could be awarded for any of such offences.

III. If several acts, of which one or more than one would by itself constitute an offence, form, when combined, a different offence, the person accused of them may be charged with every offence, or any of the different offences, which he may have committed; but he

must not receive for such offences, collectively, a punishment more severe than that which might have been awarded for any one of such offences.

#### *Illustrations.*

##### *To paragraph I.*

(a.) A rescues B, a person in lawful custody, and in so doing causes grievous hurt to C, a constable in whose custody B was. A may be separately charged with, convicted of, and punished for, offences under sections 225 and 338, Indian Penal Code.

(b.) A has in his possession several counterfeit seals with the intention of committing several forgeries. A may be separately charged with, convicted of, and punished for, the possession of each seal for a distinct forgery under section 473, Indian Penal Code.

(c.) A, with intent to cause injury to B, institutes proceedings against him, knowing there is no just or lawful ground for such proceedings. A also, in the course of the proceedings, falsely charges B with having committed an offence. A may be separately charged with, convicted of, and punished for, two offences under section 211, Indian Penal Code.

(d.) A, with intent to injure B, brings a false charge against him of having committed an offence. On the trial, A gives false evidence against B. A may be separately charged with, convicted of, and punished for, offences under sections 211 and 194 or 195, Indian Penal Code.

(e.) A, knowing that B, a female minor, has been kidnapped, wrongfully confines her and detains her as a slave. A may be separately charged with, convicted of, and punished for, offences under sections 368 (read with 367) and 370, Indian Penal Code.

(f.) A, with six others, commits the offences of rioting, grievous hurt to B, and of assaulting C, a public servant engaged in suppressing the riot. A may be separately charged with, convicted of, and punished for, offences under sections 147, 325 and 152, Indian Penal Code.

(g.) A criminally intimidates B, C and D at the same time. A may be separately charged with, convicted of, and punished for, each of the three offences under section 506, Indian Penal Code.

(h.) A intentionally causes the death of three persons by upsetting a boat. A may be separately charged with, convicted of, and punished for, three offences under section 302, Indian Penal Code.

##### *To paragraph II.*

(i.) A commits mischief by cutting down a tree in a Government forest. The tree overhangs the bank of a river and falls into the stream. A commits theft by having severed the tree and by floating it down the river to his village, where he sells it. A may be separately charged with, and convicted of, offences under sections 426 and 379, Indian Penal Code; but the Court which tries him may not inflict a more severe sentence than if it had convicted him under section 379 only.

(j.) A wrongfully strikes B with a cane. A may be separately charged with, and convicted of, offences under sections 352 and 323 of the Indian Penal Code; but the Court which tries him may not inflict a more severe sentence than if it had convicted him under section 323 only.

(k.) A wrongfully kills a buffalo worth sixty rupees belonging to B, and then takes away the carcase in a manner amounting to theft. A may be separately charged with, and convicted of, offences under sections 429 and 379, Indian Penal Code; but the Court which tries him may not inflict a more severe sentence than if it had convicted him under section 429 only.

(l.) Several stolen sacks of corn are made over to A and B, who know they are stolen property. A and B thereupon assist each other to conceal the sacks at the bottom of a grain-pit. A and B may be separately charged with, and convicted of, offences under sections 411 and 414, Indian Penal Code; but the Court which tries them may not inflict a severer sentence than if it had convicted them under one of those sections only.

(m.) A uses a forged document in evidence, in order to convict B, a public servant, of an offence under section 167. A may be separately charged with, and convicted of, offences under sections 471 (read with 466) and 196 of the Indian Penal Code; but the Court which tries him may not inflict a severer sentence than if it had convicted him under one of those sections only.

##### *To paragraph III.*

(n.) A commits house-breaking by day with intent to commit adultery, and commits, in the house so entered, adultery with B's wife. A may be separately charged with, and convicted of, offences under sections 454 and 497, Indian Penal Code; but the Court which tries him may not inflict a severer sentence than if it had convicted him under section 497 only.

(o.) A robs B, and, in doing so, voluntarily causes hurt to him. A may be separately charged with, and convicted of, offences under sections 323, 392 and 394 of the Indian Penal Code; but the Court which tries him may not inflict a severer sentence than if it had convicted him under section 392 or 394 only.

(p.) A entices B, the wife of C, away, and then commits adultery with her. A may be separately charged with, and convicted of, offences under sections 498 and 497, Indian Penal Code; but the Court which tries him may not inflict a severer sentence than if it had convicted him under section 497 only.

20. If a single act or series of acts is of such a nature that it is doubtful which of several offences the facts which can be proved will constitute, the accused person may be charged with having committed all or any of such offences; and any number of such charges may be tried at once, or he may be charged in the alternative with having committed some one of the said offences.

*Illustration.*

A is accused of an act which may amount to either theft, receiving stolen property, criminal breach of trust, or cheating. He may be charged separately with theft, criminal breach of trust, and cheating, or he may be charged with having committed either theft, or criminal breach of trust, or cheating.

21. If, in the case mentioned in section twenty, one charge only is brought against an accused person, and it appears in evidence that he committed a different offence, for which he might have been charged under the provisions of that section, he may be convicted of the offence which he is shown to have committed, although he was not charged with it.

*Illustration.*

A is charged with theft. It appears that he committed criminal breach of trust, or receiving stolen goods. He may be convicted of criminal breach of trust, or receiving stolen goods, though he was not charged with it.

22. When a person is charged with an offence, and part of the charge is not proved, but the part which is proved amounts to a different offence, he may be convicted of the offence which he is proved to have committed, though he was not charged with it.

*Illustrations.*

(a.) A is charged, under section 407, Indian Penal Code, with criminal breach of trust in respect of property entrusted to him as a carrier. It appears that he did commit criminal breach of trust under section 406 in respect of the property, but that it was not entrusted to him as a carrier. He may be convicted of criminal breach of trust under section 406.

(b.) A is charged with murder. He may be convicted of culpable homicide, or of causing death by negligence.

23. When more persons than one are accused of the same offence, or of different offences committed in the same transaction, or when one person is accused of committing any offence, and another of abetment of, or attempt to commit, such offence, they may be charged and tried together or separately, as the Court thinks proper, and the provisions hereinbefore contained shall apply to all such charges.

*Illustrations.*

(a.) A and B are accused of the same murder. A and B may be charged and tried together for the murder.

(b.) A and B are accused of a robbery, in the course of which A commits murder with which B has nothing to do. A and B may be tried together on a charge, charging both of them with the robbery, and A alone with the murder.

(c.) A and B are both charged with a theft, and B is charged with two other thefts committed by him in the course of the same transaction. A and B may be both tried together on a charge, charging both with the one theft, and B alone with the two other thefts.

24. No error, either in the way in which the offence is stated, or in the particulars required by the Code of Criminal Procedure to be stated, and no omission to state the offence, or to state those particulars, shall be regarded at any stage of the case as material, unless the person accused was in fact misled by such error or omission.

*Illustrations.*

(a.) A is charged, under section 242 of the Indian Penal Code, with "having been in possession of counterfeit coin, having known at the time when he became possessed thereof that such coin was counterfeit;" the word "fraudulently" being omitted in the charge. Unless it appears that A was in fact misled by this omission, the error shall not be regarded as material.



(b.) A is charged with cheating B, and the manner in which he cheated B is not set out in the charge, or is set out incorrectly. A defends himself, calls witnesses, and gives his own account of the transaction. The Court may infer from this that the omission to set out the manner of the cheating is not material.

(c.) A is charged with cheating B, and the manner in which he cheated B is not set out in the charge. There were many transactions between A and B, and A had no means of knowing to which of them the charge referred, and offered no defence. The Court may infer from such facts that the omission to set out the manner of the cheating was, in this case, a material error.

(d.) A is charged with the murder of Khodá Baksh on the 21st January. In fact, the murdered person's name was Haidar Baksh, and the date of the murder was the 20th January. A was never charged with any murder but one, and had heard the inquiry before the Magistrate, which referred exclusively to the case of Haidar Baksh. The Court may infer from these facts that A was not misled, and that the error in the charge was immaterial.

(e.) A was charged with murdering Haidar Baksh on the 20th January, and Khodá Baksh (who tried to arrest him for that murder) on the 21st January. When charged for the murder of Haidar Baksh, he was tried for the murder of Khodá Baksh. The witnesses present in his defence were witnesses in the case of Haidar Baksh. The Court may infer from this that A was misled, and that the error was material.

25. If any Magistrate or other authority purporting to exercise powers conferred, but not being actually so empowered, commits an accused person to take his trial before a High Court, the Court may, after perusal of the proceedings, accept the commitment if it considers that the accused person has not been prejudiced, unless objection was made on behalf either of the accused person or of the prosecution to the jurisdiction of the committing Magistrate during the inquiry and before the order of commitment.

If such Court considers that the accused person was prejudiced, or if such objection as aforesaid was so made, it shall quash the commitment, and direct a fresh inquiry by a competent Magistrate.

26. Pending the directions of the Court as to the place of trial, every person committed for trial shall (if not admitted to bail) be committed by the Magistrate for intermediate custody to the criminal jail in which he can be most conveniently confined.

If the trial be directed to be held at the ordinary place of sitting of the Court, the Magistrate shall bind over the person charged to appear and take his trial at such place of sitting, or shall commit him to the jail at such place.

If the Court direct that the person charged be tried elsewhere than at its ordinary place of sitting, the Magistrate shall bind him over to appear and take his trial at the place so directed, or shall, if necessary, cause him to be removed to the criminal jail at or nearest to the place at which he is directed to be tried.

27. The Court may direct that all European British subjects committed or bailed for trial by it within certain specified districts or during certain specified periods of the year, shall be tried at the ordinary place of sitting of the Court,

or direct that they shall be tried at a particular place named, and may also order that they shall, if not bailed, be committed for intermediate custody to a particular jail, being one of the jails appointed by the Government for the reception of such prisoners.

#### CHAPTER IV.

##### OF THE COMMENCEMENT OF THE TRIAL.

28. When the Court is ready to commence the trial, the accused person shall be brought before it, and the charge shall be read and explained to him, and he shall be asked whether he is guilty of the offence charged, or claims to be tried.

Plea of guilty.

29. If the accused person pleads guilty, the plea shall be recorded, and he may be convicted thereon.

30. If the accused person refuses to, or does not, plead, or if he claims to be tried, the Court shall proceed to choose jurors as hereinafter directed, and to try the case.

Right of accused to be defended.

31. Every person accused of an offence may of right be defended by any advocate of a High Court.

Any such person may, with the permission of the Court (but not otherwise), employ any person not being an advocate, attorney or pleader, to assist him in his defence.

## CHAPTER V.

### OF JURIES.

#### (a) *Of Juries generally.*

Trials to be by jury.

32. All trials under this Act shall be by jury ;

and, notwithstanding anything contained in section sixty-four of the Code of Criminal Procedure, in all criminal cases transferred to a High Court under that section or under the Letters Patent of any High Court established under the twenty-fourth and twenty-fifth of Victoria, Chapter 104, the trial may, if the High Court so direct, be by jury.

33. The jury shall consist of nine persons, who shall be chosen by lot from the persons summoned to act as jurors : provided that, in case of a deficiency of such persons the number required may, with the

leave of the Court, be chosen from such other persons as may be present.

34. Subject to the right of challenge hereinafter mentioned, the same jury may try as many accused persons successively as the Court thinks fit.

35. If before the first juror is called and accepted, any European British subject charged as aforesaid requires to be tried by a mixed jury, the majority of the jurors shall consist of Europeans or Americans, or both Europeans and Americans.

36. In any case in which a European British subject is accused jointly with a person not being a European British subject, and such European British subject is committed for trial before a High Court, the person so jointly accused shall (if the committing Magistrate thinks that he ought to be tried) also be committed for trial before such High Court, notwithstanding any provision to the contrary in the Code of Criminal Procedure.

Such persons may be tried together, and the procedure on the trial shall be the same as it would have been had the European British subject been tried separately.

37. Provided that, if before the first juror is called and accepted the European British subject requires the majority of the jurors to consist of Europeans or Americans, or both Europeans and Americans, and the person not being a European British subject requires that he shall be tried separately by a jury of which at least five members shall be persons not being Europeans or Americans, the latter person shall be tried separately.

#### (b) *Of Juries in the Presidency Towns.*

Trials before special jury.

38. Every person tried in Calcutta, Madras or Bombay shall be tried before a special jury,

(a) if charged with having committed an offence punishable with death, or

(b) if in any other case a Judge of the High Court so directs.

39. The jurors' book for the year current when this Act comes into force, shall be taken as containing a correct list of persons liable to serve as jurors under this Act ;

and those persons whose names are entered in the said book as being liable to serve on special juries only shall be deemed to be persons privileged and liable to serve only as special jurors under this Act during the year for which the said list has been prepared.

40. The names of not more than two hundred persons shall at any one time be entered in the special jurors' list.

Number of special jurors.

**41.** All persons whose names are entered in the special jurors' list shall be exempted from serving on any other than special juries, but so long only as their names are contained in such list.

**42.** The Clerk of the Crown shall, before the first day of April in each year, and subject to such rules as the High Court from time to time prescribes, prepare

(a) a list of all persons liable to serve as common jurors ;

(b) a list of persons liable to serve as special jurors only.

Regard shall be had, in the preparation of the latter list, to the property, character and education of the persons whose names are entered therein.

No person shall be entitled to have his name entered in the special jurors' list, merely because he may have been entered in the special jurors' list for a previous year.

The Governor General in Council may exempt any salaried officer of Government from serving as a juror.

**43.** The Clerk of the Crown shall, subject to such rules as aforesaid, have full discretion to prepare the said lists as seems to him to be proper, and there shall be no appeal from, or review of, his decision.

**44.** Preparatory lists of persons liable to serve as common jurors and as special jurors, respectively, signed by the officer by whom the same have been prepared, shall be published once in the local official Gazette before the fifteenth day of April next after their preparation.

Revised lists of persons liable to serve as common jurors and special jurors, respectively, signed as aforesaid, shall be published once in the local official Gazette before the first day of May next after their preparation.

Copies of the said lists shall be affixed to some conspicuous part of the Court-house.

**45.** Out of the persons named in the revised lists aforesaid, there shall be summoned for each sessions at least twenty-seven of those who are liable to serve on special juries, and fifty-four of those who are liable to serve on common juries.

No person shall be so summoned more than once in six months unless the number cannot be made up without him.

If, during the continuance of any sessions, it appears that the number of persons so summoned is not sufficient, such number as may be necessary of other persons liable to serve as aforesaid shall be summoned for such sessions.

**46.** Any person summoned under section forty-five who without lawful excuse fails to attend as required by the summons, or who having attended departs without having obtained the permission of the Judge, or fails to attend after an adjournment of the Court after being ordered to attend, shall be deemed guilty of a contempt and be liable by order of the Judge to such fine as he thinks fit, and, in default of payment of such fine, to imprisonment in the civil jail until the fine is paid.

**47.** Challenges without cause shown shall be allowed to the number of eight on behalf of the Crown and eight on behalf of the person or all the persons charged.

The following and no others shall be good causes of challenge, whether on behalf of the Crown or by the person or persons charged :—

(a) some personal objection, such as alienage, infancy, old age, or deficiency in the qualification required by any law or rule having the force of law for the time being in force :

(b) some presumed or actual partiality in the juror :

(c) a previous conviction of the juror of a non-bailable offence under the Indian Penal Code, or of a similar offence under any other law in force in British India :

(d) inability to understand English when spoken.

**48.** The Judge before whom a person charged is about to be tried shall try any challenge, other than a challenge without cause shown ; and if the Judge allow the challenge, the juror shall be set aside.

Trial of challenges.

The decision of the Judge as to any challenge shall be final.

49. Save as herein provided, the High Courts of Judicature at Fort William, Madras and Bombay shall retain all their present powers respecting the summoning, empanelling, qualification, challenging and service of jurors,

and shall have power to make such rules on these subjects (consistent with the provisions of this Act) as seem to them to be proper.

All rules relating to jurors now in force in the same High Court shall (so far as they are consistent with this Act) remain in force until repealed or altered by new rules made under this section.

(c) *Of Juries in the Mofussil.*

50. Whenever a High Court has given notice of its intention to hold sittings at any place (other than the towns of Calcutta, Madras and Bombay) for the exercise of its original criminal jurisdiction, the Court of Session at such place shall, subject to any direction which may be given by the High Court, take and cause to be taken the measures prescribed by sections 407, 409, 410 and 411 of the Code of Criminal Procedure for the summoning of jurors.

51. In addition to the persons so summoned as jurors the said Court of Session shall if it think needful, after communication with the Commanding Officer, cause to be summoned such number of Commissioned and Non-Commissioned Officers in the military service, resident within ten miles of its place of sitting, as the Court considers to be necessary to make up the juries required for the trial of European British subjects charged with offences before the High Court as aforesaid.

All Commissioned and Non-Commissioned Officers so summoned shall be liable to serve on such juries notwithstanding anything contained in the Code of Criminal Procedure; but no Commissioned or Non-Commissioned Officer shall be summoned whom his Commanding Officer desires to have excused on the ground of urgent military duty, or for any other special military reason.

52. The juries for the trial of European British subjects as aforesaid shall be formed in the manner required by the Code of Criminal Procedure and by this Act from the persons summoned in accordance with sections 50 and 51.

53. As each juror is chosen, his name shall be called aloud, and, upon his appearance, the accused person shall be asked if he objects to be tried by such juror.

Objection may then be made to such juror by the accused person, or by the prosecutor, and the grounds of objection shall be stated.

54. Any objection made to a juror on any of the following grounds, if made out to the satisfaction of the Court, shall be allowed:—

(a) his holding any office in or under the Court or the local Court of Session;  
(b) his executing any duties of Police or being entrusted with any Police functions;  
(c) his having been convicted of any offence against the State, or of any fraudulent or other offence which, in the judgment of the Court, renders him unfit to serve on the jury;

(d) his having by habit or religious vows, relinquished all care of worldly affairs;  
(e) his standing in the relation of husband, master, servant, landlord or tenant, to the person alleged to be injured, or attempted to be injured, by the offence charged, or to the person accused;

(f) his being in the employment of any of such persons;  
(g) his being plaintiff or defendant in any civil suit against any of such persons;  
(h) his having complained against, or having been accused by, any of such persons in any criminal prosecution;

(i) any circumstance which, in the judgment of the Court, is likely to cause prejudice against, or favor to, any of such persons, or which renders such person improper as a juror.

55. Any objection made to a juror shall be decided by the Court, and such decision shall be final.

56. If the objection be allowed, the place of such juror shall be supplied by any other juror attending in obedience to a summons; or, if there be no such other juror present, then by any other person present in the Court whose name is on the list of jurors, or whom the Court considers a proper person to serve on the jury; provided no objection to such other juror or person be made and allowed under section fifty-four.

Supply of place of juror against whom objection allowed.  
Juror to understand language in which evidence is given or interpreted.

57. The Judge shall not allow any person to serve on the jury, unless such person understands the language in which the evidence is given or interpreted.

(d) *Of the Foreman.*

Foreman of jury.

58. When the jury has been completed, they shall appoint one of their number to be foreman.

It shall be the duty of the foreman to preside in the debates of the jury, to deliver the verdict of the jury, and to ask any information from the Court that may be required by the jury or any of the jurors.

If a majority of the jury do not agree in the appointment of a foreman, he shall be appointed by the Court.

## CHAPTER VI.

### OF THE TRIAL.

59. The prosecutor shall then open his case, and the witnesses shall be examined, cross-examined and re-examined according to the law for the time being relating to the examination of witnesses.

Examination of witnesses.

Examination of accused before Magistrate to be evidence.

60. The examination of the accused person before the committing Magistrate shall be given in evidence at the trial.

Examination of accused.

61. The Court may from time to time, at any stage of the trial, examine the accused person.

The accused person shall not be liable to any punishment for refusing to answer, or for answering falsely, questions asked under this section, but the Court shall draw such inference as seems just from such refusal or false answer.

Accused not punishable for refusal to answer.

No oath or affirmation shall be administered to the accused person.

62. When the examination of the witnesses for the prosecution and the examination of the accused person are concluded, the accused person shall be asked whether he means to call witnesses. If he says that he does not, the prosecutor may sum up his case. The Court may then, if it thinks that there are no grounds for proceeding, direct the jury to return a verdict of acquittal.

Defence.

If the Court considers that there are grounds for proceeding, it shall call on the accused person to state his grounds of defence and produce his witnesses.

The accused person or his Counsel may then state the case for the defence, and may examine the witnesses, if any, produced for the defence, and at the conclusion of such examination may sum up his case.

Prosecutor's right of reply.

63. If any evidence is adduced on behalf of the accused person, the prosecutor shall be entitled to reply.

64. Whenever, in the opinion of the Court, it is proper and convenient that the jury should view the place in which the offence charged is said to have been committed, or any other place in which any other transaction material to the inquiry in the trial took place, an order shall be made to that effect, and the jury shall be conducted in a body, under the care of an officer of the Court, to such place, which shall be shown to them by a person appointed by the Court. Such officer shall not suffer any other person to speak to, or hold any communication with, any of the jury.

View by jury.

65. The High Court may from time to time make rules as to keeping the jury together during a trial lasting for more than one day, and, subject to such rules, the presiding Judge may order whether and in what

Locking-up jury.

manner the jurors shall be kept together under the charge of an officer of the Court, or whether they shall be allowed to return to their respective homes.

66. The Court may, in its discretion, postpone the hearing of the case; and may, from time to time, adjourn the trial, if it considers that such adjournment is proper and will promote the ends of justice.

Postponement of trial.  
Adjournment.

67. If a trial is adjourned, the jury shall be required to attend at the adjourned sitting, and at every subsequent sitting, until the conclusion of the trial.

Jury to attend at adjourned sitting.

68. The Court may, if it think fit, from time to time by general rule, prescribe the manner in which evidence shall be taken down in cases coming before the Court in the exercise of its ordinary or its extraordinary original criminal jurisdiction, and the Judges of such Court shall take down the evidence or the substance thereof in accordance with the rule (if any) so prescribed.

Power to prescribe mode in which evidence shall be taken down.

69. If a jurymen is personally acquainted with any relevant fact, it is his duty to inform the Judge that such is the case, whereupon he may be examined, cross-examined and re-examined, in the same manner as any other witness.

Evidence of jurors.

70. When the services of an interpreter are required by the Court for the interpretation of any evidence or statement, he shall be bound to state the true interpretation of such evidence or statement.

Interpreter.

## CHAPTER VII.

### OF EVIDENCE.

71. The examination of a Civil Surgeon or other medical witness, taken and duly attested by a Magistrate, may be given in evidence in any criminal trial, although the person examined is not called as a witness.

Evidence of medical witness.

Court may summon medical witness.

The Court may summon such Civil Surgeon or other medical witness, if it sees sufficient cause for doing so.

72. Any document purporting to be a report from the Chemical Examiner, or Assistant Chemical Examiner, to Government, upon any matter or thing duly submitted to him for examination or analysis and report, in the course of any criminal trial, or in any preliminary inquiry relating thereto, may, if it bears his signature, be used as evidence in any criminal trial.

Report of Chemical Examiner.

The Court may presume that the signature of any such document is genuine, and that the person signing it held the office which he professed to hold at the time when he signed it.

Genuineness of signature may be presumed.

73. If, after the commencement of the trial, the accused person admits before the Court the commission of an offence, the Court may convict him on his own admission, whether such offence is the same as the offence of which he is accused, or not.

Admission of accused.

74. If an accused person abscond, and after due pursuit cannot be arrested, the Court may, in his absence, examine the witnesses (if any) produced on behalf of the prosecution and record their depositions; and any such deposition may, on the arrest of such person, be put in on his trial for the offence with which he is charged if it is not practicable to procure the attendance of the deponent.

Record of evidence in absence of accused.

75. When a witness is produced, the evidence (if any) given by him before the committing Magistrate may, in the discretion of the presiding Judge, be treated as evidence in the case, if it was duly taken in the presence of the accused person.

Evidence given at preliminary inquiry.

EXPLANATION.—This section shall not authorize the Court to refer to the record of the evidence given by a witness who is absent, except in the cases in which such evidence may be referred to under the Indian Evidence Act, 1872, or other law in force for the time being upon the subject of evidence.

*Commissions.*

76. Whenever, at any time after the commitment, it appears that the attendance of a witness cannot be procured without an amount of delay, expense or inconvenience which, under the circumstances of the case, would be unreasonable, the Court may dispense with his personal attendance.

The Court may direct a commission to the Magistrate of the District, or to a Magistrate of the first class, in whose jurisdiction such witness may be. The Magistrate to whom the commission is directed shall proceed to the place where such witness is, or shall summon such witness before himself. Such Magistrate shall take the evidence of such witness in the same manner, and shall have for this purpose, and may exercise, the same powers as in trials of warrant cases under the Code of Criminal Procedure.

When the witness is in the territories of any Native Prince or State in India in alliance with Her Majesty, the commission may be directed to any Justice of the Peace or other officer in the service of the Crown resident in such territories; and the provisions of the second clause of this section shall apply to such Justice of the Peace or officer.

If the witness is within the local limits of the ordinary original criminal jurisdiction of any of the High Courts of Judicature at Fort William, Madras and Bombay, the commission may be directed to any Police Magistrate within such limits, and such Magistrate shall have the like power to compel the attendance and examination of witnesses as he possesses for that purpose in cases pending before him.

The prosecutor and the accused person may forward interrogatories, upon which the officer to whom the commission is directed shall examine the witness, or the prosecutor may appear personally before the officer to whom the commission is directed, or the prosecutor or accused person may so appear by authorized agent.

After any commission issued under this section has been duly executed, it shall be returned, together with the deposition of the witness examined thereunder, to the Court out of which it issued; and the commission, the return thereto, and the deposition of such witness may be used as evidence in the case and shall form part of the record.

*Tender of Pardon to obtain Evidence.*

77. The Court may, with the view of obtaining on the trial the evidence of any person or persons supposed to have been directly or indirectly concerned in, or privy to, any offence mentioned in column 7 of the fourth schedule annexed to the Code of Criminal Procedure as triable exclusively by the Court of Session, instruct the committing Magistrate to tender, or itself may, at any time before judgment, tender, a pardon to such person or persons, on condition of his or their making a full, true and fair disclosure of the whole of the circumstances, within his or their knowledge, relative to the crime committed and every other person concerned in the perpetration thereof.

Any person accepting a tender of pardon under this section shall be examined as a witness in the case, under the rules applicable to the examination of witnesses.

Such person, if not on bail, shall be detained in custody pending the termination of the trial.

78. When a pardon has been tendered under section seventy-seven, if it appears to the Court that any person who has accepted such tender has not conformed to the conditions under which it was made, either by wilfully concealing anything essential, or by giving false evidence, the Court may commit, or direct the commitment of, such person, for trial for the offence in respect of which the pardon was so tendered, or for any other offence of which he may appear to have been guilty in connection with the same matter.

The statement made by a person under pardon, which pardon has been withdrawn under this section, may be put in evidence against him.



*Of securing Attendance of Witnesses and Production of Documents.*

Procedure for obtaining attendance of witnesses.

79. The following procedure shall be pursued in order to obtain the attendance of witnesses before the Court.

Power to summon material witness or examine person present.

80. The Court may, at any stage of any proceeding, inquiry or trial, summon any witness, or examine any person in attendance though not summoned as a witness, and it shall be its duty to do so if the evidence of such person appears essential to the just decision of the case.

When warrant of arrest may issue in first instance.

81. If the Court has reason to believe that any witness whose attendance is required will not attend to give evidence without being compelled to do so, it may, instead of issuing a summons, issue a warrant of arrest in the first instance.

Procedure when warrant cannot be served.

82. If such warrant cannot be executed, and the Court considers that the witness is absconding or concealing himself for the purpose of avoiding the service thereof, it may issue a proclamation, requiring his attendance to give evidence at a time and place to be named therein, to be affixed on some conspicuous part of his ordinary place of abode.

If the witness does not attend at the time and place named in such proclamation, the Court may order the attachment of any moveable property belonging to such witness, to such amount as seems reasonable, not being in excess of the amount of costs of attachment and of any fine to which he may be liable under the provisions of the next following section.

Such order shall authorize the attachment of any such moveable property within the jurisdiction of the Court by which the order was made; and if any such moveable property be without the jurisdiction of the said Court, such order when endorsed by the Magistrate of the District in which such property is situated shall authorize the attachment of the property last aforesaid.

83. If the witness appears and satisfies the Court that he did not abscond or conceal himself for the purpose of avoiding the execution of the warrant, and that he had not notice of the proclamation in time to attend at the time and place named therein, the Court shall direct that the property attached be released from attachment, and shall make such order in regard to the costs of the attachment as the Court thinks fit.

Release of attached property of witness appearing and satisfying Court.

If such witness does not appear, or, appearing, fails to satisfy the Court that he did not abscond or conceal himself for the purpose of avoiding the execution of the warrant, and that he had not such notice of the proclamation as aforesaid, the Court may order the property attached, or any part thereof, to be sold for the purpose of satisfying all costs incurred in consequence of such attachment, together with the amount of any fine which may be imposed upon such witness under the provisions of section 172 of the Indian Penal Code.

If the witness pays to such Court the costs and fine as aforesaid, his property shall be released from attachment.

Arrest of person disobeying summons.

84. If any person summoned to give evidence neglects or refuses to appear at the time and place appointed by the summons, and no reasonable excuse is offered for such neglect or refusal, the Court, upon proof of the summons having been duly served, may issue a warrant under its seal to bring such person before it to testify as aforesaid.

Right of accused as to examination of witness.

85. The accused person shall be allowed to examine as a witness any person in attendance.

Procedure for obtaining production of document required as evidence.

86. Whenever the Court considers that the production of any document is necessary or desirable for the purposes of any investigation or judicial proceeding, the Court may issue a summons to the person in whose possession or power such document is believed to be, requiring him to attend and produce such document at the time and place stated in the summons.

When warrant for search for documents may issue.

87. If there is reason to believe that the person to whom the summons is addressed will not produce the document as directed in the summons, the Court may issue a search-warrant for the document in the first instance.



88. The Court may, if it thinks fit, impound any document produced before it, or may, at the conclusion of the proceedings, order such document to be returned to the person who produced it.

Power to impound document produced.

89. If a witness refuses to answer any question which is put to him or to produce any document in his possession or power which the Court requires him to produce, and does not offer any just excuse for such refusal, he shall be deemed guilty of contempt of Court.

Procedure in case of refusal to answer or produce documents.

## CHAPTER VIII.

### OF THE CHARGE TO THE JURY.

90. When the case for the defence and the prosecutor's reply, if any, are concluded, the Court shall proceed to charge the jury, summing up the evidence for the prosecution and defence, and laying down the law by which the jury are to be guided.

Charge to jury.

91. It is the duty of the Judge to decide all questions of law, and especially all questions as to the relevancy of facts which it is proposed to prove, the admissibility of evidence, or the propriety of questions asked by parties or their agents, which may arise in the course of the trial; and, in his discretion, to prevent the production of inadmissible evidence, whether it is or is not objected to by the parties;

Duty of Judge.

to decide upon the meaning and construction of all documents given in evidence at the trial;

to decide upon all matters of fact which it may be necessary to prove in order to enable evidence of particular matters to be given;

to decide whether any question which arises is for himself or for the jury; and upon this point his decision shall be final.

The Judge may, if he thinks proper, in the course of his summing up, express to the jury his opinion upon any question of fact, or upon any question of mixed law and fact relevant to the proceeding.

#### *Illustrations.*

(a). It is proposed to prove a statement made by a person not called as a witness, under circumstances which render evidence of his statement admissible.

It is for the Judge, and not for the jury, to decide whether the existence of those circumstances has been proved.

(b). It is proposed to give secondary evidence of a document, the original of which is alleged to have been lost or destroyed.

It is the duty of the Judge to decide whether the original has been lost or destroyed.

## CHAPTER IX.

### OF THE VERDICT AND THE DISCHARGE OF THE JURY.

92. After the Judge has finished his charge, the jury may retire to consider their verdict.

Retirement to consider.

Except with the leave of the Court, no person other than a juror shall speak to, or hold any communication with, any member of such jury.

Duty of jury.

93. It is the duty of the jury—

(a) to decide which view of the facts is true, and then to return the verdict which under such view ought, according to the direction of the Judge, to be returned;

(b) to determine the meaning of all technical terms and words used in an unusual sense, which it may be necessary to determine, whether such words occur in documents or not.

(c) to decide all questions which according to law are to be deemed questions of fact;

(d) to decide whether general, indefinite expressions do or do not apply to particular cases, unless such expressions refer to legal procedure, or unless their meaning is ascertained by law, in either of which cases it is the duty of the Judge to decide their meaning.

*Illustrations.*

(1.) A is tried for the murder of B.

It is the duty of the Judge to explain to the jury the distinction between murder and culpable homicide, and to tell them under what views of the facts A ought to be convicted of murder, or of culpable homicide, or to be acquitted.

It is the duty of the jury to decide which view of the facts is true, and to return a verdict in accordance with the direction of the Judge, whether that direction is right or wrong, and whether they do or do not agree with it.

(2.) The question is, whether a person entertained a reasonable belief on a particular point. Whether work was done with reasonable skill, or due diligence.

Each of these is a question for the jury.

94. When the jury have considered their verdict, the foreman shall inform the Court what is their verdict, or what is the verdict of a majority.

Foreman to communicate verdict.

Verdict to be given on each charge.

Judge may question jury.

95. The jury shall return a verdict on all the charges on which the accused is tried, and the Court may ask them such questions as are necessary to ascertain what their verdict is.

96. If the jury are not unanimous, the Judge may require them to retire for further consideration. After such a period as the Judge considers reasonable, the jury may deliver their verdict, although they are not unanimous.

97. A verdict of guilty or not guilty, as the case may be, shall be delivered either when the jury are unanimous in their opinion, or when as many as six are of one opinion and the Judge agrees with them.

Verdict when to be delivered.

Discharge of jury in default of unanimity or majority of six with Judge's concurrence.

98. When the jury are satisfied that they will not be unanimous, but six of them are of one opinion, the foreman shall so inform the Judge.

If the Judge disagrees with the majority, he shall then discharge the jury.

If there are not so many as six who agree in opinion, the Judge shall, after the lapse of such time as he thinks reasonable, discharge the jury.

Discharge of jury in case of sickness of juror or prisoner.

99. The Judge may also discharge the jury whenever by reason of illness a jurymen becomes incapable of attending through the trial or the prisoner becomes incapable of remaining at the bar.

100. Whenever the jury is discharged, the prisoner shall be detained in custody or on bail (as the case may be) and shall be tried by another jury unless the Judge considers that he should not be re-tried, in which case the Judge shall make an entry to that effect on the charge, and such entry shall operate as an acquittal.

Re-trial of prisoner after discharge of jury.

101. When any person has, in a trial before a Judge of the High Court acting in the exercise of its original criminal jurisdiction, been convicted of an offence, the Judge, if he thinks fit, may reserve for the decision of a Court consisting of two or more Judges of the High Court any question of law which has arisen in the course of the trial of such person and the determination of which would affect the event of the trial.

Power to reserve questions.

If the Judge reserves any such question, the person convicted shall, pending the decision thereon, be remanded to jail, or, if the Judge think fit, be admitted to bail,

Procedure when question reserved.

and the High Court shall have power to review the case, or such part of it as may be necessary, and finally determine such question, and thereupon to alter the sentence passed by the Court of original jurisdiction, and to pass such judgment and sentence as to the High Court seem fit.

102. When more charges than one are preferred against the same person, and when a conviction has been had on one or more of them, the prosecutor may, with the consent of the Court, withdraw, or the Court of its own accord may direct the withdrawal of, the remaining charge or charges. Such withdrawal shall have the effect of an acquittal on such charge or charges.

Withdrawal of remaining charges, on conviction on one of several charges.

## CHAPTER X.

## OF THE SENTENCE.

Form and direction of warrant of commitment.

Provisions of Criminal Procedure Code, sections 303, 304, 305, applied in Mofussil.

103. Whenever

Levy of fine.

offence be punishable with fine only, and whether or not the sentence direct that, in default of payment of the fine, the offender shall suffer imprisonment.

Such warrant may be executed within the jurisdiction of the Court, and it shall authorize the distress and sale of any moveable property belonging to the offender without the jurisdiction of the said Court, when endorsed by the Magistrate of the District in which such property is situate.

This section shall not apply to cases in which any special procedure is laid down by any special or local law in force for the time being for the recovery of any fine, but shall apply to cases in which no such procedure is laid down, and to all fines not levied when this Act comes into force, but which might have been levied under this section if it had been in force when they were imposed.

106. Whenever the Court imposes a fine under any law in force for the time being, the Court may order the whole or any part of the fine to be paid in compensation,

(a) for expenses properly incurred in the prosecution;

(b) for the offence complained of, where such offence can, in the opinion of the Court, be compensated by money.

Such payment shall be made, as the Court thinks fit, to or for the benefit of the complainant, or the person injured, or both.

In any subsequent civil proceedings relating to the same matter, the Court shall take into account any sum which may have been awarded under this section.

107. In every case punishable under any law in force for the time being with imprisonment as well as fine, in which the offender is sentenced to a fine, whether with or without imprisonment, the High Court shall be guided by the provisions of sections 64, 65, 68, 69 and 70 of the Indian Penal Code in awarding the period of imprisonment in default of payment of the fine.

Execution of sentences of whipping.

108. Sentences of whipping shall be executed in manner provided by the Code of Criminal Procedure, sections 311, 312 and 113.

109. When a person is convicted, at one trial, of two or more offences punishable

Sentence in cases of simultaneous conviction of several offences.

under the same or different sections of any law for the time being in force, the Court may sentence him, for the offences of which he has been convicted, to the several penalties prescribed by such enactment or enactments, which such Court is competent to inflict; such penalties, when consisting of imprisonment, or transportation, or penal servitude, to commence the one after the expiration of the other:

Maximum term of imprisonment.

Provided that in no case shall such person be sentenced to imprisonment for a longer period than fourteen years.

110. When sentence of death or whipping is passed on an escaped convict, the Court shall direct the new sentence to take effect without waiting for the expiration of the sentence from which he has escaped.

When any other sentence is passed on an escaped convict severer than the sentence from which he has escaped, the Court shall also direct the new sentence to take effect without waiting for the expiration of the sentence from which he escaped.

When the new sentence is not severer than the sentence from which he has escaped, the Court shall direct the new sentence to take effect after such convict has suffered imprisonment, or transportation, or penal servitude, as the case may be, for a further period equal to that which, at the time of his escape, remained unexpired of his former sentence.

When the former sentence on the escaped convict is or includes transportation or penal servitude for life and the Court does not sentence him to death, the new sentence shall direct that he be, as soon as practicable, sent back to the place from which he escaped.

**EXPLANATION.**—For the purpose of this section—

(a) a sentence of transportation or penal servitude shall be deemed severer than a sentence of imprisonment :

(b) a sentence of imprisonment with solitary confinement shall be deemed severer than a sentence of imprisonment without solitary confinement; and

(c) a sentence of rigorous imprisonment shall be deemed severer than a sentence of simple imprisonment with or without solitary confinement.

111. When sentence is passed on a person actually undergoing sentence of imprisonment or transportation, and the sentence is for imprisonment or transportation, the Court shall direct such imprisonment or transportation to commence at the expiration of the imprisonment or transportation to which he has been previously sentenced:

or, if he is undergoing a sentence of imprisonment, and the sentence on such subsequent conviction be for transportation or penal servitude, the Court may direct the sentence to commence immediately, or at the expiration of the imprisonment to which such person has been previously sentenced:

Provided that nothing in this section shall be held to excuse such person from any part of the punishment to which he is liable upon such former or subsequent conviction.

**Proviso.**

112. When any person under the age of sixteen years is sentenced to imprisonment for any offence, the Court may direct that such offender, instead of being imprisoned in the criminal jail, shall be confined in any reformatory established by the Local Government as a fit place for confinement, in which there are means of suitable discipline and of training in some branch of useful industry, or which is kept by a person willing to obey such rules as the Government prescribes with regard to the discipline and training of persons confined therein.

All persons confined under this section shall be subject to the rules so prescribed.

**Sentence of death.**

113. When any person is sentenced to death, the sentence shall direct that he be hanged by the neck till he is dead.

**Postponement of capital sentence on pregnant woman.**

114. If a woman sentenced to death be found to be pregnant, the High Court shall order the execution of the sentence to be postponed, and may commute the sentence.

**Order for disposal of property regarding which offence committed.**

115. When the trial is concluded, the Court may make such order as it thinks fit for the disposal of any property produced before it, regarding which any offence appears to have been committed.

Any order under this section may be in the form of a reference to a Magistrate, who shall in such case deal with the property as if it had been seized by the Police and the seizure duly reported to him.

**EXPLANATION.**—In this section the term ‘property’ includes not only such property as has been originally in the possession or under the control of any party, but also any property into or for which the same may have been converted or exchanged, and anything acquired by such conversion or exchange, whether immediately or otherwise.

116. Subject to any rules that may be passed by the Local Government with the previous sanction of the Governor General in Council, the Court may order payment, on the part of Government, of the reasonable expenses of any complainant or witness attending for the purpose of any trial before such Court under this Act.

**Expenses of complainants and witnesses.**

## CHAPTER XI.

### OF PREVIOUS CONVICTIONS OR ACQUITTALS.

117. A person who has once been tried for an offence and convicted or acquitted of such offence, shall, while such conviction or acquittal remains in force, not be liable to be tried again for the same offence, nor on the same facts for any other offence for which a different charge

**Person once convicted or acquitted not to be tried for same offence.**

from the one made against him might have been made under section 20, or for which he might have been convicted under section 21.

A person convicted or acquitted of any offence may be afterwards tried for any offence, for which a separate charge might have been made against him on the former trial under section 19, paragraph 1.

A person convicted or acquitted of any offence in respect of any act, causing consequences which, together with such act, constituted a different offence from that for which such person was acquitted or convicted, may be afterwards tried for such last-mentioned offence, if the consequences had not happened, or were not known to the Court to have happened, at the time when he was acquitted or convicted.

A person convicted or acquitted of any offence in respect of any facts may, notwithstanding such acquittal or conviction be subsequently charged with and tried for any other offence which he may have committed in respect of the same facts, if the Court by which he was first tried was not competent to try the offence with which he is subsequently charged.

#### *Illustrations.*

(a.) A is tried upon a charge of theft as a servant and acquitted. He cannot afterwards be charged with the same theft as a servant, or, upon the same facts, with theft simply or with criminal breach of trust.

(b.) A is tried upon a charge of murder and acquitted. There is no charge of robbery; but it appears from the facts that A committed robbery at the time when the murder was committed; he may afterwards be charged with, and tried for, robbery.

(c.) A is tried for an assault and convicted. The person afterwards dies. A may be tried again for culpable homicide.

(d.) A is tried under section 270 of the Indian Penal Code for malignantly doing an act likely to spread the infection of a disease dangerous to life and is acquitted. The act so done afterwards causes a person permanently to lose his eyesight. A may be charged, under section 325, with voluntarily causing grievous hurt to that person.

(e.) A is charged before the Court of Session and convicted of the culpable homicide of B. A may not afterwards be tried for the murder of B on the same facts.

(f.) A is charged by a Magistrate of the first class with, and convicted by him of, voluntarily causing hurt to B. A may not afterwards be tried for voluntarily causing grievous hurt to B, on the same facts unless the case comes within paragraph three.

(g.) A is charged by a Magistrate of the second class with, and convicted by him of, theft of property from the person of B. A may be subsequently charged with, and tried for, robbery, on the same facts.

(h.) A, B and C are charged by a Magistrate of the first class with, and convicted by him of, robbing D. A, B and C may afterwards be charged with, and tried for, dacoity, on the same facts.

118. If the accused person has been previously convicted of any offence, and if it is intended to prove such previous conviction for the purpose of affecting the punishment which is to be awarded, the fact of the previous conviction must be stated in the charge. If it is omitted, it may be added at any time before sentence is passed, but not afterwards.

119. A previous conviction or acquittal may be proved by an extract certified under the hand of the officer having the custody of the records of the Court in which such conviction or acquittal was had, to be a copy of the finding and sentence.

## CHAPTER XII.

### OF CRIMINAL LUNATICS.

120. If any person committed for trial appears at his trial to the Court to be of unsound mind and incapable of making his defence, the Court shall, in the first instance, try the fact of such unsoundness of mind, and if satisfied of the fact, shall give a special judgment that the accused person is of unsound mind and incapable of making his defence; and thereupon the trial shall be postponed.

The trial of the fact of the unsoundness of mind of the accused person shall be deemed to be part of his trial before the Court.

121. Whenever an accused person is found to be of unsound mind and incapable of making his defence, the Court, if the offence of which he is accused be bailable, may release him on sufficient security being given that he shall be properly taken care of, and shall be prevented from doing injury to himself or to any other person, and for his appearance when required.

If the offence be not bailable, or if the required bail be not given, the Court shall report the case to the Local Government, and the accused person shall be kept in safe custody in such place as the Local Government directs.

122. Whenever a trial is postponed under section 120, the Court may at any time resume the trial, and require the accused person, if detained in custody, to be brought before the Court; or, if he has been released on security, may require his appearance.

The surety of such person shall be bound, at any time, to produce him to any officer whom the Court appoints to inspect him; and the certificate of such officer shall have the same effect as the certificate of an Inspector General of Prisons or the Visitors of Lunatic Asylums, granted under section 127.

123. If, when the accused person appears or is again brought before the Court, it appears to such Court that he is in a fit state of mind to make his defence, he shall be put on his trial.

If it appears that the accused person is still of unsound mind, and incapable of making his defence, the Court shall again act according to the provisions of section 121.

124. Whenever any person is acquitted upon the ground that, at the time at which he is charged with having committed an offence, he was, by reason of unsoundness of mind, incapable of knowing the nature of the act charged, or that he was doing what was wrong or contrary to law, the finding shall state specially whether such person committed the act or not.

125. Whenever such finding states that the accused person committed the act charged, the Court before which the trial was held shall, if the act charged would, but for the incapacity found, have amounted to an offence, order him to be kept in safe custody, in such place and manner as the Court thinks fit, and shall report the case for the order of the Local Government.

The Local Government may order such person to be kept in safe custody in a Lunatic Asylum or other suitable place of safe custody.

126. When any person is confined under the provisions of section 121 or 125, the Inspector General of Prisons, if such person is confined in a jail, or the Visitors of the Lunatic Asylums or any two of them, if he is confined in a Lunatic Asylum, may visit him in order to ascertain his state of mind; and he shall be visited once at least in every six months by such Inspector General or by two of such Visitors as aforesaid; and such Inspector General or Visitors shall make a special report to the Local Government as to the state of mind of such person.

127. If such person is confined under section 121 and such Inspector General or Visitors as aforesaid shall certify that, in his or their opinion, such person is capable of making his defence, he shall be taken before the Court, at such time as it appoints, and the Court shall deal with him under the provisions of section 123; and the certificate of such Inspector General or Visitors as aforesaid shall be receivable as evidence.

128. If such person is confined under the provisions of section 125, and such Inspector General or Visitors as aforesaid shall certify that, in his or their judgment, he may be discharged without danger of his doing injury to himself or to any other person, the Local Government may thereupon either order him to be discharged, or to be detained in custody, or to be transferred to a public Lunatic Asylum, if he has not been already sent to such an Asylum; and may appoint a commission, consisting of a judicial officer and two medical officers, whereof the chief medical officer attached to the Lunatic Asylum shall be one.

The said commission shall make formal inquiry into the state of mind of such person taking such evidence as is necessary, and shall report to the Local Government, who may order his discharge or detention as to it may seem fit.

129. Whenever any relative or friend of any person detained under the provisions of section 125 is desirous that he shall be delivered over to his care and custody, the Local Government, upon the application of such relative or friend, and on his giving security to the satisfaction of such Government that the person detained shall be properly taken care of and shall be prevented from doing injury to himself or to any other person, may order that the person detained be delivered to such relative or friend.

Whenever such person is so delivered, it shall be upon condition that he shall be subject to be inspected by such officer, and at such times as the Local Government directs.

The provisions of sections 126 and 128 shall apply to persons detained under the provisions of this section; and the certificate of the inspecting officer appointed under this section shall be dealt with as a certificate of the Inspector General of Prisons or the Visitor of Lunatic Asylums, under the said sections.

130. If an accused person, though not insane, cannot be made to understand the proceedings, the Court may proceed with the trial; and if such trial results in a conviction, the Court shall pass thereon such order as it thinks fit.

### CHAPTER XIII.

#### OF PROSECUTIONS IN CERTAIN CASES.

131. A complaint of an offence punishable under chapter VI of the Indian Penal Code, except section 127, or punishable under section 294A of the said Code, shall not be entertained, unless the prosecution be instituted by order of, or under authority from, the Governor General in Council or the Local Government, or some officer empowered by the Governor General in Council to order or authorize such prosecution, or unless instituted by the Advocate General.

132. A complaint of an offence of which any Judge or any public servant removable from his office without the sanction of the Government is accused as such Judge or public servant, shall not be entertained against him, except with the sanction or under the direction of the Government, or of some officer empowered by the Government, or of some Court or other authority to which he is subordinate, and whose power so to sanction or direct such prosecution the Government does not think fit to limit or reserve.

No such Judge or public servant shall be prosecuted for any act purporting to be done by him in the discharge of his duty, unless with the sanction of the Government.

Sanction when to be given. The sanction must be given before the commencement of the proceedings.

In this section the expression 'Government' means either the Local Government or the Governor General in Council; and the expressions 'Judge' and 'public servant' have the meanings assigned to them respectively by the Indian Penal Code.

133. A complaint of any offence described in chapter X of the Indian Penal Code, not falling within sections 175, 178, 179 or 180 of that Code, shall not be entertained by any High Court, except with the sanction or on the complaint of the public servant concerned, or of his official superior.

134. The sanction referred to in section 133 may be expressed in general terms, and need not name the accused person, and may be given at any time.

EXPLANATION.—In cases under this chapter, the report or application of the public servant shall be deemed sufficient complaint.

135. When the Court is of opinion that there is sufficient ground for inquiring into any charge mentioned in section 133, it may, after making such preliminary inquiry as may be necessary, either commit the case itself, or may send the case for inquiry to any Magistrate having power to try or commit for trial the accused person for the offence charged.

Such Magistrate shall thereupon proceed according to law; and the Court may send the accused person in custody, or take sufficient bail for his appearance before such Magistrate; and may bind over any person to appear and give evidence on such trial or inquiry.

The Magistrate receiving the case may, if he is authorized to make transfers of cases, transfer the inquiry to some other competent Magistrate, instead of completing the inquiry himself.

## CHAPTER XIV.

### OF BAIL.

136. The Court may in any case direct that an accused person shall be admitted to bail, or that the bail required by a Magistrate be reduced.

Power to direct admission to bail.

137. Whenever, by reason of default of appearance of the person executing the personal recognizance, the Court is of opinion that proceedings should be had to compel payment of the penalty mentioned in the recognizance, it shall proceed to enforce the penalty, by issuing a warrant for the attachment and sale of the moveable property belonging to such person, which may be found within its jurisdiction.

Procedure to compel payment of penalty by accused.

Such warrant may be executed within such limits, and it shall authorize the distress and sale of any moveable property belonging to the accused person without such limits, when endorsed by the Magistrate of the District in which such property is situate.

138. Whenever, by reason of default of appearance by the person bailed, the Court is of opinion that proceedings should be had to compel payment of the penalty mentioned in the recognizance of the surety or sureties, it shall give notice to the surety or sureties to pay the same, or to show cause why it should not be paid.

Procedure to compel payment of penalty by sureties.

If such penalty be not paid, and if no sufficient cause for its non-payment be shown, the Court shall proceed to recover the penalty from such surety or sureties, by issuing a warrant for the attachment and sale of any moveable property belonging to him or them which may be found within its jurisdiction.

Such warrant may be executed within such local limits; and it shall authorize the distress and sale of any moveable property belonging to the surety or sureties without such limits, when endorsed by the Magistrate of the District in which such property is situate.

If such penalty be not paid and cannot be recovered by such attachment and sale, such surety or sureties shall be liable to confinement, by order of the Court, in the civil jail, during a period not exceeding six months:

Provided that the Court may, at its discretion, remit any portion of the penalty mentioned in the recognizance of the party or witness, or of the surety or sureties, and enforce payment in part only:

Remission of part of penalty.

Court may direct Magistrate to levy sum forfeited.

The Court may direct any Magistrate to levy the amount due on a forfeited bail-bond executed in respect of attendance before such Court.

139. When any person is required to give bail, the Court may permit him to deposit a sum of money or Government promissory notes to such amount as it may fix in lieu of such bail.

Deposit instead of bail.

## CHAPTER XV.

### OF SECURITY FOR KEEPING THE PEACE.

140. Whenever a person accused of rioting, assault, or other breach of the peace, or with abetting the same, or with assembling armed men or taking other unlawful measures with the evident intention of committing the same, is convicted of such offence,

Personal recognizance to keep the peace in cases of conviction.

and the Court is of opinion that it is just and necessary to require such person to give a personal recognizance for keeping the peace,

the Court may, in addition to any other order passed in the case, direct that the person so convicted be required to execute a formal engagement, in a sum proportionate to his condition in life and the circumstances of the case, for keeping the peace during such period as it may appear proper to fix in each instance, not exceeding three years, with a provision that, if the same be not given, he shall be kept in simple imprisonment



for any time not exceeding three years, unless within such period he executes such formal engagement as aforesaid.

If the accused person be sentenced to imprisonment, the period for which he may be required to execute a recognizance, and the imprisonment in default of executing such recognizance, shall commence on the expiration of his sentence.

141. Whenever it appears necessary to require security for keeping the peace, Security to keep the in addition to the personal recognizance of the party so convicted, peace, the Court empowered to require a personal recognizance may require security in addition thereto, and may fix the amount of the security-bond to be executed by the surety or sureties; with a provision that, if the same be not given, the party required to find the security shall be kept in simple imprisonment for any time not exceeding three years.

142. Whenever a person is convicted of an offence attended with criminal force, and it appears to the Court that, by such criminal force, any Power to restore possession of immoveable property. person has been dispossessed of any immoveable property, the Court may cause such person to be restored to possession.

No order made for this purpose shall prejudice any right over such immoveable property which any person may be able to show in a civil suit.

## CHAPTER XVI.

### MISCELLANEOUS.

Saving of Acts XV of 1869 and V of 1871.

143. Nothing herein contained shall be deemed to affect the Prisoners' Testimony Act, 1869, or the Prisoners Act, 1871.

144. The Advocate General may, with the previous sanction of the Governor Advocate General may exhibit informations. General in Council or the Local Government, exhibit to the local High Court, against persons subject to the jurisdiction of the said Court, informations for all purposes for which Her Majesty's Attorney-General may exhibit informations on behalf of the Crown in the Court of Queen's Bench or Exchequer.

Such proceedings may be taken upon every such information as may lawfully be taken in case of similar informations filed by Her Majesty's Attorney General in England, so far as the circumstances of the case and the course and practice of proceeding in the said High Courts respectively will admit.

All fines, penalties, forfeitures, debts and sums of money recovered or levied under or by virtue of any such information shall belong to the Government of India.

145. Upon charges preferred by the Advocate General or by any Magistrate or other officer specially empowered by the Government in this Effect of charge preferred by Advocate General. behalf, persons committed to custody or held to bail shall be deemed to have been brought before the High Court in due course of law, and (subject to the provisions herein contained as to the amendment and alteration of charges, and subject also to the provisions of section 24) shall be tried upon the charges so recorded.

146. At any stage of any proceeding under this Act, before the return of the Power to enter nolle prosequi. verdict, the Advocate General may, if he think fit, inform the Court on behalf of Her Majesty that he will not further prosecute the defendant upon the information or charge; and thereupon all proceedings on such information or charge against the defendant shall be stayed, and he shall be discharged of and from the same. But such discharge shall not amount to an acquittal.

147. Whenever it appears to the High Court of Judicature at Fort William, Madras or Bombay, that the direction hereinafter mentioned will Power of Presidency High Court to transfer to itself cases from Police Magistrates. promote the ends of justice, it may direct the transfer to itself of any particular case from any criminal Court situate within the local limits of its ordinary original criminal jurisdiction, and the High Court shall have power to determine the case so transferred, and to quash or affirm any conviction or other proceeding which may have been had therein, but so that the same be not quashed for want of form, but on the merits only.

Power to issue directions of the nature of a *habeas corpus*.

148. Any of the High Courts of Judicature at Fort William, Madras and Bombay may, whenever it thinks fit, direct—

(a) that a prisoner, legally committed and within the local limits of its ordinary original criminal jurisdiction, be brought up before it to be bailed :

(b) that a person within such limits be brought up before the Court to be dealt with according to law :

(c) that a person illegally or improperly detained in public or private custody within such limits be set at liberty :

(d) that a prisoner detained in any gaol situate within such limits be brought before the Court to be there examined as a witness in any matter pending or to be inquired into in such Court :

(e) that a prisoner detained as aforesaid be brought before a Court Martial or any Commissioners acting under the authority of any commission from the Governor General in Council, for trial, or to be examined touching any matter depending before such Court Martial or Commissioners respectively :

(f) that a prisoner within such limits be removed from one custody to another for the purpose of trial :

(g) that the body of a defendant within such limits may be brought in on the Sheriff's return of *cepi corpus* to a writ of attachment ;

and neither the High Court nor any Judge thereof shall hereafter issue any writ of *habeas corpus* for any of the above purposes.

Each of the said High Courts shall, as soon as conveniently may be, frame rules to regulate the procedure in cases under this section ; and till such rules are framed, the practice of such Courts as to the obtaining, granting and serving of writs of *habeas corpus*, and as to the returns thereto, shall apply in such cases.

Nothing in this section applies to persons detained under Bengal Regulation III of 1818, Madras Regulation II of 1819, or Bombay Regulation XXV of 1827, or the Acts of the Governor General in Council No. XXXIV of 1850 or No. III of 1858.

149. Affidavits and affirmations to be used before any High Court or any officer of such Court, may be sworn and affirmed before such Court or the Clerk of the Crown, or any Commissioner or other person appointed by such Court for that purpose, or any Judge or Commissioner for taking affidavits in any Court of Record in British India, or any Commissioner to administer oaths in Chancery in England or Ireland, or any Magistrate authorized to take affidavits or affirmations in Scotland.

150. Every High Court in the exercise of its original criminal jurisdiction shall be deemed an open and public Court, to which the public generally may have access, so far as the same can conveniently contain them :

But the presiding Judge may, if he thinks fit, order that, during the trial of any particular case, no person shall have access to, or be, or remain in, the room or building used by the Court, without the consent or permission of the Court.

151. In the case of offences which may lawfully be compounded, injured persons may compound the offence out of Court, or in Court with the permission of the Court.

Such withdrawal from the prosecution shall have the effect of an acquittal of the accused person.

152. Every Judge of a High Court shall, by virtue of his office, be a Justice of the Peace within and for the whole of British India.

153. Cases pending, when this Act comes into force, in any High Court in the exercise of its original criminal jurisdiction shall be decided, as far as may be, according to the procedure provided in this Act.

## THE SCHEDULE.

(See section 2.)

## Acts.

Number and Year.	Subject or Title.	Extent of Repeal.
XXXI of 1838 ...	Supreme Courts, Criminal Law ...	So much as has not been repealed.
XXII of 1839 ...	An Act for enabling persons charged with offences to make their defence more effectually.	So much as has not been repealed.
IV of 1849 ...	Criminal Lunatics ...	So much as has not been repealed.
XVI of 1852 ...	An Act for further improving the administration of Criminal Justice in Her Majesty's Courts of Justice in the territories of the East India Company.	So much as has not been repealed.
XVIII of 1859 ...	An Act to amend the law relating to offences declared to be punishable on conviction before a Magistrate.	So much as has not been repealed.
XVIII of 1862 ...	An Act to repeal Act XVI of 1852 in those parts of British India in which the Indian Penal Code is in force, and to re-enact some of the provisions thereof with amendments, and further to improve the administration of Criminal Justice in Her Majesty's Supreme Courts of Judicature.	Sections 1 to 25 (both inclusive): sections 36 to 46 (both inclusive): and sections 54, 55 and 56.
XIII of 1865 ...	An Act to amend the procedure of Her Majesty's High Courts of Judicature in the exercise of their original jurisdiction, and to provide for the exercise of such jurisdiction at places other than the Presidency Towns.	So much as has not been repealed.
IV of 1866 ...	An Act to amend the constitution of the Chief Court of Judicature in the Panjāb and its Dependencies.	Sections 21 to 41 (both inclusive), and section 20, except the first twenty-two words.
XVI of 1866 ...	An Act to relieve the Governor General of India in Council from the duty of signing the commissions mentioned in sections 22 and 44 of the High Courts Criminal Procedure Amendment Act, 1865.	The whole.
XXIV of 1866 ...	An Act to amend the procedure of the High Court of Judicature for the North-Western Provinces of the Presidency of Fort William.	Sections 2 to 17 (both inclusive).
XIII of 1869 ...	An Act further to amend the procedure of the High Court of Judicature for the North-Western Provinces.	Sections 1 and 2, and so much of sections 3 and 4 as relates to criminal jurisdiction.
XXII of 1870 ...	An Act to confirm certain laws affecting European British subjects.	Section 3.

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STATUTES.

Number and Year.	Title or abbreviated Title.	Extent of Repeal.
13 Geo. III, c. 63 ...	An Act for establishing certain Regulations for the better management of the affairs of the East India Company, as well in India as in Europe.	Section 34. In section 38, the words "and the Chief Justice and other Judges of the said Supreme Court of Judicature."
33 Geo. III, c. 52 ...	An Act whose title begins with the words An Act for continuing, and ends with the words and Bombay.	Sections 153 and 154.
53 Geo. III, c. 155 ...	An Act whose title begins with the words An Act for continuing, and ends with the words Company's Charter.	Sections 100, 102, 103.
9 Geo. IV, c. 74 ...	An Act for improving the administration of Criminal Justice in the East Indies.	The whole Act except sections one, seven, eight, nine, twenty-five, twenty-six, and fifty-six.

ACT No. XI OF 1875.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor General on the 9th March 1875.)

*An Act to amend the Law relating to Salt in the Presidency of Fort St. George.*

WHEREAS it is expedient to amend the law relating to the price of salt sold under the orders of Government in the Presidency of Fort St. George;

Preamble.

It is hereby enacted as follows :—

Short title.

1. This Act may be called "The Madras Salt Act, 1875 :"

Local extent.

It extends to the territories under the government of the Governor of Fort St. George in Council ;

Commencement.

And it shall come into force at once.

2. The Governor General in Council may, from time to time, by notification published in the *Gazette of India*, impose, for any local area, a duty

Power to impose, for any local area, duty on salt manufactured or sold under orders of Government.

on salt manufactured or sold therein under the orders of the Governor of Fort St. George in Council, not exceeding one rupee and thirteen annas for every maund of three thousand two hundred tolas.

3. Whenever any such notification is published, the enactments mentioned in the

Power to impose, for any local area, additional sum to cover cost of salt.

schedule hereto annexed shall be repealed in such local area, and the Local Government shall from time to time, by notification in the *Fort St. George Gazette*, fix as part of the price of every maund of salt so to be sold within such local area, or any part thereof, such additional sum or sums as it may deem sufficient to cover the cost of importation, purchase, manufacture, storage, transport, sale and wastage.

4. The Local Government may vary such additional sum or sums for any description

Power to alter additional sum.

of salt, or for any part of such local area, with reference to all or any of the following considerations (namely) :—

- (a) the place in which the salt is sold ;
- (b) the quantity of the salt sold in any transaction ;
- (c) any other circumstances affecting its sale.

5. The price to be paid to the Local Government in any part of any local area mentioned in any notification under section three or four shall, for every maund of salt sold in such area or part, be the total amount of the duty and additional sum for the time being so imposed and fixed for such salt as aforesaid.

The price payable in any local area for any description of salt at the date of the publication of any notification under section two, shall be taken to be the price payable under this section for such description of salt, until an additional sum is fixed under section three for such area.

### SCHEDULE.

(See section 3.)

The following portions of Act No. XXIV of 1869 (*to enhance the price of Salt in the Presidency of Fort St. George and the duty on Salt in the Presidency of Bombay*), namely, in the title, the words "the price of salt in the Presidency of Fort St. George and;" in the preamble, the words "the price of salt manufactured and sold in the Presidency of Fort St. George and;" and in section two, paragraph one and the first word of paragraph two, and so much of the second schedule to the Laws Local Extent Act, 1874, as refers to Act No. XXIV of 1869.

## THE INDIAN PORTS ACT, 1875.

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ACT XII OF 1875.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor General on the 15th March 1875.)

*An Act to consolidate and amend the law relating to Ports and Port-dues.*

Preamble.

WHEREAS it is expedient to consolidate and amend the law relating to Ports and Port-dues : It is hereby enacted as follows :—

CHAPTER I.

PRELIMINARY.

Short title. 1. This Act may be called "The Indian Ports Act, 1875."

2. It shall extend—

(a) to the ports mentioned in the first schedule hereto annexed, and to such parts of the navigable rivers and channels leading to such ports respectively, as have been declared to be subject to Act No. XXII of 1855 (for the regulation of Ports and Port-dues) ;

(b) to the other ports or parts of rivers or channels to which the Local Government, in exercise of the power hereinafter conferred, applies the provisions of this Act.

But nothing herein contained shall—

(c) apply to any vessel belonging to, or in the service of, Her Majesty or the Government of India, or to any vessel of war belonging to any Foreign Prince or State ;

(d) deprive any person of any right of property or other private right, except as hereinafter expressly provided ; or

(e) affect any law or rule relating to the Customs, or any order or direction lawfully made or given pursuant thereto.

And nothing contained in any of the following sections (namely), thirty-eight, thirty-nine, forty and forty-one, shall apply to any port, river or channel to which such section has not been specially extended by the Local Government.

3. The Acts mentioned in the second schedule hereto annexed shall be repealed to the extent specified in the third column thereof.

Repeal of Acts.



Every declaration, appointment or rule made under any such Act and now in force shall be deemed to have been made under this Act.

The references made to any Act or provision of an Act hereby repealed shall be read as if made to this Act or the corresponding provision of this Act, as the case may be.

Interpretation-clause.	4. In this Act, unless there be something repugnant in the subject or context—
"Vessel."	"Vessel" includes anything made for the conveyance by water of human beings or of property :
"Master," when	used in relation to any vessel, means any person (except a Pilot or Harbour-Master) having for the time being the charge or control of such vessel :
"Master."	
"Pilot."	"Pilot" means a person for the time being authorized by the Local Government to pilot vessels :
"Owner."	"Owner" includes also any agent to whom a vessel is consigned :
"Gunpowder."	"Gunpowder" includes also rockets and other combustible ammunition :
"Magistrate"	means a person exercising powers under the Code of Criminal Procedure not less than those of a Magistrate of the Second Class and includes, in the Towns of Calcutta, Madras and Bombay, a Magistrate of Police ; and
"Magistrate."	
"Port."	"Port" includes also any part of a river or channel in which this Act is for the time being in force.

## CHAPTER II.

### OF THE POWERS OF THE LOCAL GOVERNMENT.

5. With the previous sanction of the Governor General in Council, the Local Government may, from time to time, by notification in the official Gazette,

(a) extend this Act to any port or to any part of any navigable river or channel leading thereto in which this Act is not in force,

(b) extend specially the provisions of any of the following sections (namely), thirty-eight, thirty-nine, forty and forty-one, to any port or to any part of any such river or channel to which such provisions have not been so extended,

(c) withdraw this Act from any port or any part thereof in which it is for the time being in force :

Provided that every notification under clause (a) or clause (b) of this section may define the limits of the port, river or channel to which it refers, and that such limits may extend to high-water-mark.

Such limits may include any piers, jetties, landing-places, wharfs, quays, docks, and other works made on behalf of the public for convenience of traffic, for safety of vessels, or for the improvement, maintenance and good government of such port, river or channel, whether within or without high-water-mark, and (subject to any rights of private property therein) any portion of the shore or bank within fifty yards of such line.

EXPLANATION :—In this section 'high-water-mark' means the highest point reached by ordinary springtides at any season of the year.

6. The Local Government may, from time to time, with the like sanction, and subject to the rights referred to in section five, alter the limits of any port in which this Act may be in force, and declare or describe, by notification in the official Gazette or by means of maps, posts or otherwise, the precise extent of such limits.

Local Government empowered to make Port-rules as to—

entering or leaving port :

7. The Local Government may, from time to time, make such rules, consistent with this Act, as it may think necessary for any of the following purposes, namely,—

(a) for regulating the time at which, and the manner in which vessels shall enter into or go out of any port subject to this Act :

- berths of vessels : (b) for regulating the berths, stations and anchorages to be occupied by vessels in any such port :
- (c) for striking the yards and top-masts, and for rigging-in the booms and yards, of vessels in any such port ; and for swinging or taking-in davits, boats and other things projecting from such vessels :
- striking yards, &c. : (d) for the removal or proper hanging or placing of anchors, spars, and other things, in or attached to vessels in any such port :
- removal of anchors, &c. : (e) for regulating vessels whilst taking in or discharging ballast or cargo, or any particular kind of cargo, in any such port, and the stations to be occupied by vessels whilst so engaged :
- taking in or discharging ballast : (f) for keeping free passages of such width as may be deemed necessary within any such port, and along or near to the piers, jetties, hanging-places, wharfs, quays, docks, moorings, and other works in or adjoining to the same ; and for marking out the spaces so to be kept free :
- keeping free passage : (g) for regulating the anchoring, fastening, mooring, and unmooring of vessels in any such port :
- regulating the anchoring : (h) for regulating the moving and warping of all vessels within any such port and the use of warps therein :
- moving and warping : (i) for regulating the use of the mooring buoys, chain and other moorings, in any such port :
- use of mooring buoys : (j) for fixing from time to time the rates to be paid for the use of such moorings when belonging to Government, or of any boat, hawser, or other thing belonging to Government :
- rates for use of mooring buoys : (k) for licensing and regulating cargo and other boats, and catamarans plying for hire in any such port :
- cargo-boats, &c. : (l) for regulating the use of fires and lights within any such port :
- fires and lights : (m) for enforcing and regulating the use of signal-lights by vessels at night in any such port :
- signal-lights : (n) for regulating the number of the crew which must be on board any vessel afloat within the limits of any such port :
- number of crew : (o) for fixing the limits within which vessels shall be prohibited from having on board in any such port any quantity of gunpowder in excess of such quantity as the Local Government prescribes in this behalf.
- possession of gunpowder.

### CHAPTER III.

#### OF PORT OFFICERS, THEIR POWERS AND DUTIES.

8. The Local Government shall appoint some officer or body of persons to be Conservator of every port subject to this Act, and may suspend or remove such officer or body.

Subject to any direction by the Local Government to the contrary—

(a) in ports where there is a Master Attendant, such Master Attendant shall be the Conservator :

(b) in ports where there is no Master Attendant, but where there is a Harbour-Master, such Harbour-Master shall be the Conservator.

Where the Harbour-Master is not Conservator, the Harbour-Master and his Assistants shall be subordinate to, and subject to the control of, the Conservator.

The Conservator shall be subject to the control of the Local Government, or of any intermediate authority which that Government may appoint.

9. The Conservator of any port subject to this Act, may, in respect of any vessel within such port, give directions for carrying into effect any port-rule for the time being in force therein.

Whoever wilfully, and without lawful excuse, refuses or neglects to obey any lawful direction of such Conservator, after notice thereof has been given to him, shall, for every such offence, be punished with fine which may extend to one hundred rupees, and with a further fine which may extend to one hundred rupees for every day on which he wilfully continues to disobey such direction ;

and, in case of such refusal or neglect, the said Conservator may do, or cause to be done, all acts necessary for the purpose of carrying such direction into execution, and may hire and employ proper persons for that purpose ; and all reasonable expenses incurred in doing such acts shall be paid by the person so offending.

Any written notice of a direction given under this Act, left for the Master of any vessel with any person employed on board thereof, or affixed on a conspicuous place on board of such vessel, shall, for the purposes of this Act, be deemed to have been given to the Master thereof.

10. The Conservator of any such port may, in case of urgent necessity, cut, or cause to be cut, any warp, rope, cable or lawser, endangering the safety of any vessel in such port or at or near to the entrance thereof.

11. The Conservator may remove, or cause to be removed, any timber, or obstruction, raft, or other thing floating or being in any part of any such port, which obstructs or impedes the free navigation thereof ; or anything which obstructs or impedes the lawful use of any pier, jetty, landing-place, wharf, quay, dock, mooring, or other work, on any part of the shore or bank which has been declared to be within the limits of such port, and is not private property ;

and the owner of any such timber or raft or other thing shall be liable to pay the reasonable expenses of such removal ;

and if such owner or any other person has without lawful excuse caused any such obstruction or impediment, or causes any public nuisance affecting or likely to affect such navigation, he shall also be punished with fine which may extend to one hundred rupees.

And the Conservator or any Magistrate having jurisdiction over the offence may cause such nuisance to be abated.

12. If the owner of any such timber or raft, or the person who has caused any such obstruction, impediment, or public nuisance as is mentioned in section eleven, neglects to pay the expense of the removal thereof within one week after demand, or within fourteen days after such removal has been notified in the official Gazette or in such other manner as the Local Government by general or special order directs, such expenses may be recovered in the same manner as any fine under this Act ;

and the Conservator may cause such timber, raft, or other thing, or the materials of

any nuisance or obstruction so removed, or so much thereof as may be necessary, to be sold by public auction ;

and may retain all the expenses of such removal and sale out of the proceeds of such sale ; and shall pay the surplus of such proceeds, or deliver so

much of the said timber or other materials as may remain unsold, to the person entitled to receive the same ;

and, if no such person appear, shall cause the same to be kept and deposited in such manner as the Local Government directs ;

and may, if necessary, from time to time, realize the expenses of keeping the same, together with the expenses of such sale, by a further sale of so much of the said timber or other materials as may remain unsold.

13. If any obstruction or impediment to the navigation of any port subject to this Act has been lawfully made, or has become lawful by reason of the long continuance of such obstruction or impediment, or otherwise, the Conservator shall report the same for the information of the Local Government, and shall, with the sanction of such Government, cause the same to be removed or altered, making to the person suffering damage by such removal or alteration reasonable compensation for the same.

Every dispute arising concerning such compensation, shall be determined according to the law relating to like disputes in the case of land required for public purposes.

14. If any vessel hook or get foul of any of the buoys or moorings laid down by or by the authority of the Local Government in any such port, the Master of such vessel shall not, nor shall any other person, except in the case of emergency, lift such buoy or

mooring for the purpose of unhooking or getting clear from the same without the assistance of the Conservator,

and the Conservator, immediately on receiving notice of such accident, shall assist and superintend the clearing of such vessel ;

Expense of clearing vessel. and the Master of such vessel shall, upon demand, pay such reasonable expense as may be incurred in clearing the same.

Any Master offending against the provisions of this section shall, for every such offence, be punished with fine which may extend to one hundred rupees.

Penalty.

15. If any vessel be wrecked, stranded or sunk in any such port, so as to impede, or be likely to impede, the navigation thereof, the Conservator may cause the same to be raised, removed or destroyed ;

Power to raise wreck, &c., impeding navigation within the port.

Expense how recoverable. and may recover the same on behalf of the Local Government in the manner provided by section forty-four.

16. The Conservator or any of his Assistants may, whenever he suspects that any offence has been, or is about to be, committed contrary to this Act, or whenever it is necessary for him so to do in the discharge of

Power to board vessels.

any duty hereby imposed upon him ;

and the Collector of Customs, or other officer appointed to collect any port-dues or other charges payable in respect of any vessel under this Act, may, whenever it is necessary so to do, for the performance of any duty hereby imposed upon such Collector or other officer,

either alone or with any other person, board any vessel, or enter any building or place, within the limits of any port subject to this Act.

If the Master of such vessel, or if any person in possession or occupation of any such building or place, without lawful excuse refuse to allow any officer or other person to board or enter such vessel, building or place for the performance of any duty imposed upon him by this Act, he shall for every such offence be punished with fine which may extend to two hundred rupees.

17. For the purpose of preventing or extinguishing fire in any port subject to

Power to require crews to prevent or extinguish fire.

this Act, the Conservator may require the Master of any ship within the port to place at his disposal such number as he requires, not exceeding three-fourths, of the crew then under

the orders of such Master.

Any Master refusing or neglecting to comply with such requisition shall be punished with a fine which may extend to five hundred rupees, and any seaman then under his orders who, after being directed by the Master to obey the Conservator's orders for the purpose aforesaid, refuses to obey such orders, shall be punished with fine which may extend to twenty-five rupees.

18. All acts, orders or directions by this Act authorized to be done or given by

Powers of Conservator may be exercised by Harbour-Master.

any Conservator may, subject to his control, be done or given by any Harbour-Master or any Assistant of such Conservator or Harbour-Master,

and any person hereby authorized to do any act may call to his aid such assistance as may be necessary.

19. The Government shall not be answerable for any act or default of any Master

Indemnity to Government against default of Harbour-Master, &c.

Attendant, Harbour-Master, or other Conservator of any port subject to this Act ; or of any Pilot ; or of any Deputy or Assistant of any of the officers above-mentioned ; or of any person

acting under the authority or direction of any such officer or Assistant, done within the limits of such port ;

nor for any damage sustained by any vessel in consequence of any defect in any of the moorings, hawsers, or other things belonging to Government, within the said limits, which may be used by such vessel :

Provided that nothing in this section shall protect the Secretary of State for India in Council from a suit in respect of any act done by or under the express order or sanction of Government.

Proviso.

## CHAPTER IV.

## RULES FOR THE SAFETY OF SHIPPING AND THE PRESERVATION OF PORTS.

20. No person shall, without lawful excuse, lift, injure, loosen, or set adrift any buoy, beacon, or mooring, fixed or laid down by, or by the authority of, the Local Government in any port subject to this Act.  
Injuring buoys, &c.

Whoever offends against the provisions of this section shall, for every such offence, be liable, in addition to the payment of the amount of damage done, to fine which may extend to two thousand rupees, or to imprisonment for a term which may extend to two years.

21. Whoever wilfully and without lawful excuse loosens or removes from her moorings any vessel within any such port without leave or authority from the owner or Master of such vessel, shall, for every such offence, be punished with fine which may extend to two hundred rupees, or with imprisonment for a term which may extend to six months.  
Wilfully loosening vessel from moorings.

22. No ballast or rubbish, and no other thing likely to form a bank or shoal, or to be detrimental to navigation, shall, without lawful excuse, be cast or thrown into any such port, or into or upon any place on shore, from which the same is liable to be washed into any such port, either by ordinary or high tides, or by storms or land-floods.  
Improperly discharging ballast.

Whoever by himself or another so casts or throws the same, and the Master of any vessel from which the same is cast or thrown, shall be punished with fine which may extend to five hundred rupees over and above any expenses which may be incurred in removing the same. If after receiving notice from the Conservator of the port to desist casting or throwing any such ballast or other thing, any Master continues so to cast or throw it, he shall also be liable to simple imprisonment for a term which may extend to two months.

Nothing in this section applies to any case in which such ballast or other thing is cast or thrown into any such port with the consent in writing of the Conservator, or within any limits within which such act may be authorized by the Local Government.

23. If any person grave, bream, or smoke any vessel in any such port, contrary to the directions of the Conservator, or at any time or within any limits at or within which such act is prohibited by any order of the Local Government, such person, and also the Master of such vessel, shall for every such offence be punished with fine which may extend to five hundred rupees.  
Graving, &c., vessel within prohibited limits.

24. If any person boil or heat any pitch, tar, resin, dammer, turpentine, oil, or other such combustible matter on board any vessel within any such port or at any place within its limits where such act is prohibited by the Local Government, or contrary to the order or directions of the Conservator, such person, and also the Master of any vessel on board which such offence is committed, shall for every such offence be punished with fine which may extend to two hundred rupees.  
Boiling pitch, &c., on board vessel within prohibited limits.

25. If any person, by an unprotected artificial light, draws off spirits on board any vessel within any port subject to this Act, such person, and also the Master of every such vessel, shall, for every such offence, be punished with fine which may extend to two hundred rupees.  
Drawing spirits by unprotected artificial light.

26. Every Master of a vessel in any port subject to this Act shall, when required so to do by the Conservator, permit warps to be made fast to such vessel for the purpose of warping any other vessel in the port, and shall not allow any such warp to be let go until required so to do.  
Warping.

Any Master offending against the provisions of this section shall be punished for every such offence with a fine which may extend to two hundred rupees.

27. No Master of any vessel shall cause or suffer any warp or hawser attached to his vessel to be left out in any port subject to this Act, after sun-set, in such a manner as to endanger the safety of any boat or other vessel navigating in such port.  
Leaving out hawser, &c., after sun-set.

Any Master offending against the provisions of this section shall be punished for every such offence with fine which may extend to two hundred rupees.

*Gunpowder.*

28. The Local Government shall appoint a proper place in which gunpowder in excess of the quantity allowed by rule under section seven, clause (o), for any ship in any port subject to this Act, shall be deposited; and shall also appoint an officer to receive the same.

29. The Local Government may in such case by order fix the times at or within which, and the manner in which, such gunpowder, shall be landed and deposited by any vessel inward-bound, and also the times at or within which, and the manner in which, the same shall be taken on board any vessel from such place of deposit.

30. The Master of such vessel shall, upon such gunpowder being deposited, make and sign a declaration in writing that there is not then, to his knowledge or belief, on board such vessel any gunpowder exceeding the quantity allowed by the rule last aforesaid.

31. The officer with whom such gunpowder is deposited shall give a receipt for the same to the Master or other person making the deposit, and he shall be accountable to such Master or other person for the redelivery of the same.

32. If any vessel be prevented by stress of weather from landing or depositing such gunpowder, in excess of the quantity allowed as aforesaid, the Master or owner of such vessel shall, so soon as the weather permits, land and deposit the same at the place so appointed as aforesaid, or shall forthwith give notice to the Conservator, or other officer named for that purpose by any order of the Local Government, of his having such gunpowder on board, and shall obey his directions relating to the same.

33. The Local Government may also, in respect to such port, by order, fix the times and places at which, and the manner in which, vessels outward-bound, requiring to take in any gunpowder exceeding the quantity above-mentioned, shall take in the same, whether such gunpowder has been previously landed from such vessel or not.

34. The Master of any vessel having on board any gunpowder contrary to the provisions of this Act, shall, for every such offence, be punished with fine which may extend to two hundred rupees;

and all gunpowder on board any vessel contrary to the provisions of this Act, shall be forfeited to Government, and may be seized by the Conservator, or by any Collector of Customs, or by any Custom-house officer, or other officer authorized in that behalf by the Local Government, within the limits of their respective jurisdictions.

35. Whoever, without lawful excuse, discharges any gun, musket, or other firearm in any port subject to this Act, or on or from the landing-places, piers, wharfs, or quays thereof, except a gun loaded only with gunpowder for the purpose of making a signal of distress, or for such other purpose as may be allowed by the Local Government, shall, for every such offence, be punished with fine which may extend to fifty rupees.

*Extinguishment of Fires.*

36. The Master of any vessel in which fire takes place while lying in any port, who wilfully omits to take order to extinguish such fire, shall be punished with imprisonment which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

*Inflammable Oil.*

37. The Local Government may from time to time make rules for regulating—

(a) the prevention of injury from fire in ports and places at which vessels entering port with inflammable oil on board are to be moored;

(b) the mode in which such oil shall be landed from or shipped on board of such vessels.

*Explanation.*—"Inflammable oil" includes petroleum, benzole, kerosine and any oil or product of oil that gives off an inflammable vapour at a temperature of less than one hundred degrees of Fahrenheit's thermometer.

### *Special Rules.*

38. No vessel of the burden of two hundred tons or upwards, shall be moved in any port to which this section has been specially extended without having a Pilot, Harbour-Master, or Assistant of the Master Attendant or Harbour-Master on board; and no vessel of any burden less than two hundred tons and exceeding one hundred tons shall be moved in any such port without having on board a Pilot, Harbour-Master, or Assistant of the Master Attendant or Harbour-Master, unless authority in writing so to do has been obtained from the Conservator or some officer empowered by him to give such authority.

Vessels in certain cases not to be moved without having a pilot, &c., or permission of Harbour-Master.

If any vessel, except in case of urgent necessity, be moved contrary to the provisions of this section, the Master of such vessel shall, for every such offence, be punished with fine which may extend to two hundred rupees, unless upon application to the proper officer the Master be unable to procure a Pilot, Harbour-Master, or Assistant of the Master Attendant or Harbour-Master to go on board the said vessel.

39. Every vessel exceeding the burden of two hundred tons and lying in any such port shall be provided with a proper force-pump, hose and appurtenances, for the purpose of extinguishing any fire that may occur on board.

Vessels above 200 tons to be provided with force-pump, &c.

The Master of every such vessel who, having been required by the Conservator to comply with the provisions of this section, without lawful excuse neglects or refuses so to do for the space of seven days after such requisition, shall be punished with fine which may extend to five hundred rupees.

40. No person, unless duly authorized by the Conservator, shall creep or sweep in any such port for anchors, cables or other stores lost or supposed to be lost therein.

Unauthorized person not to search for lost stores.

Whoever offends against the provisions of this section shall be punished with fine which may extend to one hundred rupees.

41. No person shall, without the permission of the Conservator, remove or carry away any rock, stones, shingle, gravel, or soil, or any artificial protection from any part of the bank or shore of any such port;

Removing stones, &c., or injuring shores of port prohibited.

and no person shall sink or bury in any part of such bank or shore, whether the same be public or private property, any mooring-post, anchor or any other thing, or do any other thing which is likely to injure or to be used so as to injure such bank or shore, except with the permission of the said Conservator, and with the aid or under the inspection of such person (if any) as he may appoint to take part in, or overlook the performance of, such work.

Whoever offends against the provisions of this section shall for every such offence be punished with fine which may extend to one hundred rupees, and shall pay the expenses of repairing the injury (if any) done by him to such bank or shore.

### *Publication of Orders.*

42. Every declaration, order and rule of a Local Government, made in pursuance of this Act, shall be published in the official Gazette; and a copy thereof shall be fixed up in some conspicuous place in the office of the Conservator of every port to which such order relates, and in the Custom-house, if any, of every port subject to this Act.

Penalty for disobedience to rules.

Whoever disobeys any such order or rule shall be liable to a fine not exceeding one hundred rupees for every such offence.

And in the case of disobedience to any rule made under section thirty-seven, the owner or Master of the vessel concerned shall also be punished with a fine not exceeding two hundred rupees for each day during which such rule is disobeyed.

## CHAPTER V.

### OF SALVAGE IN PORTS.

43. If any anchors, wreck, stores, or other property be recovered by any officer employed by the Local Government for that purpose, from the surface, bed or shore of any port subject to this Act, the Local Government shall be entitled to receive a reasonable sum for salvage, having regard to the place of recovery.

Register to be kept.

A register shall be kept of all property so recovered, in such manner and at such place as the Local Government may direct.

It shall contain a description of such property, and of the times and places where the same has been recovered ;

and it shall be open to public inspection at reasonable office-hours, except on Sundays and such holidays as the Local Government may direct.

Property recovered may, in certain cases, be sold,

44. If the property recovered under the last preceding section, or by a Conservator acting under section fifteen, is unclaimed,

or if the person claiming the same fails to pay the amount due to the Local Government in respect thereof,

such property may be sold by public auction, if of a perishable nature, forthwith ; and if not of a perishable nature, at any period not less than six months after the recovery thereof ;

and on the realization of the proceeds, the amount due to the Local Government for salvage, or for the expenses incurred under section fifteen, shall

Proceeds how applied.

be deducted therefrom, and credited to the Local Government, and the balance shall be paid to the person entitled to the property recovered, or, if no such person appear and claim the same, shall be held in deposit for payment, without interest, to any person thereafter establishing his right to the same :

Provided that he makes his claim within one year from the date of the sale.

## CHAPTER VI.

### OF PORT-DUES AND CHARGES.

45. In each of the ports mentioned in the first schedule hereto annexed, such port-due not exceeding the amount specified for such port in the third column of the same schedule as the Local Government from time to time directs shall be levied on vessels entering the same port and described in the second column of the same schedule, but not oftener than the time fixed for such port in the fourth column of the same schedule.

Whenever the Local Government, with the previous sanction of the Governor General in Council has declared or hereafter declares any port to be subject to this Act, it may, with the like sanction, by the same or any subsequent declaration, further declare—

(a) The maximum amount of dues to be levied on vessels entering such port ;

(b) the conditions and modifications under which such dues shall be levied ;

and may also, from time to time, with the like sanction, vary such conditions and modifications ; and such dues shall be levied accordingly.

All port-dues now leviable in any of the said ports shall continue to be so leviable until it is otherwise declared in exercise of the powers conferred by this section.

No port-dues or fees shall hereafter be levied in any port except under the authority of this Act.

No order increasing or imposing port-dues under this section shall take effect until the expiration of sixty days from the day on which such order has been published in the local official Gazette.

46. The Local Government may, from time to time, exempt the vessels entering any port subject to this Act from the levy of port-dues and cancel such exemption, or it may from time to time vary the rate at which port-dues shall be levied in any such port, in such manner as, having regard to the receipts and charges on account of that port, it thinks expedient, by reducing or raising the dues, or any of them :



**Proviso.** Provided that the rates shall not in any case exceed the amount authorized to be taken by this Act.

47. For every port at which port-dues are levied under this Act, a distinct account, to be called the Account of the Port Fund of the port to which it relates, shall be kept by such officer as the Local Government may appoint for that purpose.

This account shall show in complete detail the receipts and charges of the port; and an abstract statement of every such account shall be published annually, as soon after the first of May of each year as may be practicable, in which statement the balance at the close of the year at the credit or debit of the port shall be shown.

If, for any of the purposes of this Act, an advance of money has been or shall be made by Government on account of any port subject to this Act, simple interest upon that advance, or upon so much of it as remains or shall remain unrepaid, at such rate as the Governor General in Council may determine, shall be charged in the Port Fund Account thereof.

All expenses, including the pay and allowances of all persons upon the establishment of the port, the cost of buoys, beacons, lights and all other works maintained chiefly for the benefit of vessels being in, or entering, or leaving the port, or passing through the rivers or channels leading thereto, but excluding receipts and expenses on account of pilotage, incurred for the sake of every such port, shall be charged in the Port Fund Account of that port.

And all money, including salvage-money, proceeds of waifs, and fines, received under this Act, at or on account of every such port, shall be credited in the Port Fund Account of that port.

The Local Government may direct that for the purposes of this section any number of ports shall be regarded as constituting a single port; and thereupon all sums received on account of port-dues at any of the same ports shall form a common fund which shall be available for the payment of all charges incurred on account of any of the same ports, and such balance as may remain after payment of such expenses may be temporarily invested in such manner as the Local Government may from time to time direct.

48. The Collector of Customs at every such port, or such other officer as the Local Government appoints in this behalf, shall collect the port-dues abovementioned.

**Voucher to be given.** The officer to whom any such port-dues are paid shall grant to the person paying the same a proper voucher in writing under his hand, describing the name of his office, the port or place at which the port-dues are paid, and the name, tonnage and other proper description of the vessel in respect of which such payment is made.

49. Within twenty-four hours after the arrival within the limits of any port subject to this Act of any vessel liable to the payment of port-dues under this or any subsequent Act, the Master of such vessel shall report such arrival to the Conservator of such port.

Any Master without lawful excuse failing to make such report within the time aforesaid shall for every such offence be punished with fine which may extend to one hundred rupees.

Nothing in this section applies to tug-steamers, ferry-steamers or river-steamers plying in any of the ports subject to this Act.

50. If any vessel liable to the payment of port-dues is in any such port without proper marks on the stem and stern-posts thereof for denoting her draught, the Conservator may cause the same to be ascertained by means of the operation of hooking, and the Master of such vessel shall be liable to pay the expenses of such operation.

**Tonnage of vessel liable to port-dues how ascertained** 51. In order to ascertain the tonnage of any vessel liable to pay port-dues, the following rules shall be observed:—

(a) If such vessel be a British registered vessel, or a vessel registered under Act No. X of 1841 or Act No. XI of 1850, or under the laws for the time being in force for the registration of vessels in India, the Conservator may require the owner or Master of such vessel, or any person having possession of her register, to produce such register for inspection. If any such owner,

Master, or other person neglect or refuse to produce such register, or otherwise to satisfy the Conservator as to what is the true tonnage of the vessel in respect of which such port-dues are payable, he shall be punished with fine which may extend to one hundred rupees, and the Conservator may cause such vessel to be measured, and the tonnage thereof to be ascertained; and in such case the owner or Master of such vessel shall also be liable to pay the expenses of such measurement.

(b) If such vessel be not a British registered vessel, or a vessel registered under Act No. X of 1841 or Act No. XI of 1850, or under the laws for the time being in force for the registration of vessels in India, and the owner or Master thereof fail to satisfy the Conservator as to what is her true tonnage according to the mode of measurement prescribed by the law in force for the time being for regulating the measurement of British registered vessels, the Conservator shall cause such vessel to be measured and the tonnage thereof, according to the mode aforesaid, to be ascertained; and in such case, the owner or Master of such vessel shall be liable to pay the expenses of such measurement.

52. If the Master of any vessel, in respect of which any port-dues or charges are payable under this Act refuses or neglects to pay the same on demand, the Collector of Customs, or other person authorized to collect such port-dues, fees or charges, may distrain or arrest such vessel, and the tackle, apparel and furniture belonging thereto, or any part thereof, and detain the same until the amount due is paid;

and in case any part of the said port-dues or charges, or of the costs of the distress or arrest, or of the keeping of the same, remains unpaid for the space of five days next after any such distress or arrest so made, the Collector of Customs, or other such person as aforesaid, may cause the vessel or other thing so distrained or arrested to be sold, and with the proceeds of such sale may satisfy the port-dues, charges and costs, including the costs of sale remaining unpaid, and shall render the surplus (if any) to the Master of such vessel upon demand.

53. The officer of Government whose duty it is to grant a port-clearance for any vessel, shall not grant such clearance—

(a) until her owner or Master, or some other person, has paid or secured to the satisfaction of such officer the amount of all port-dues, fees and charges, and of all fines, penalties and expenses to which such vessel or her owner or Master is liable under this Act;

(b) until all expenses, which by the Merchant Shipping Act, 1854, section 228, are to be borne by her owner, incurred since her arrival in the port from which she seeks clearance, have been duly paid.

54. If the Master of any vessel in respect of which any port-dues or charges are payable causes her to leave any port without having discharged such dues, fees, or charges, the Collector of Customs or other officer authorized to collect the same may require in writing the Collector of Customs or other officer as aforesaid, in any other port in British India to which she may proceed or in which she may be, to levy such dues or charges.

Every Collector or other officer to whom such requisition shall be directed shall proceed to levy such dues or charges in the manner prescribed in section fifty-two; and a certificate purporting to be made and signed by the Collector of Customs or other officer as aforesaid of the port where the port-dues or charges became payable, stating the amount so payable, shall be sufficient *prima facie* proof of such amount in any proceeding under the said section, and also (in case the amount payable is disputed) in any subsequent proceeding under section seventy.

55. If the Master of any such vessel evades the payment of any port-dues or charges payable under this Act, he shall be liable on conviction to a penalty not exceeding five times the amount so payable.

In any proceeding before a Magistrate for the adjudication of such penalty, any such certificate as is mentioned in section fifty-four stating that the Master has evaded such payment, shall be sufficient *prima facie* proof of the evasion, unless the Master shows to the satisfaction of the Magistrate that the departure of the vessel without having

discharged the dues or charges payable was caused by stress of weather or that there was lawful or reasonable ground for such departure.

Any Magistrate having jurisdiction under this Act in any port to which the vessel may proceed or in which she may be found, shall be deemed to have jurisdiction in any proceeding under this section.

56. Vessels entering any port subject to this Act (other than the ports in British Port-due on vessels in Burma) in ballast and not carrying passengers, shall be charged ballast. with a port-due not exceeding three-fourths of the port-due with which they would otherwise be chargeable.

57. When any vessel enters any port subject to this Act, but does not discharge or take in any cargo or passenger therein (with the exception of such unshipment and reshipment as may be necessary for purposes of repair), the port-due chargeable in respect of such vessel shall be at a rate equal to one-half the rate chargeable in respect of other vessels :  
 Port-due on vessels not discharging or taking in cargo.

Provided that no vessel entering any of the ports subject to the Governor of Fort St. George in Council and leaving the same within forty-eight hours without discharging or taking in any passengers or cargo, shall be charged with any port-dues.

58. No port-due shall be chargeable in respect of any vessel which, having left any port, is compelled to re-enter it by stress of weather or in consequence of having sustained any damage.  
 Port-dues not chargeable on vessels re-entering from stress of weather.

### *Hospital Port-Dues.*

59. The Local Government may, from time to time, by notification in the official Gazette, order that there shall be paid in respect of every ship entering any port subject to this Act, within a reasonable distance of which there may be a public hospital or dispensary suitable for the reception or relief of seamen requiring medical aid, such further port-dues not exceeding one anna per ton as the Local Government thinks fit.  
 Power to impose hospital port-dues.

Such port-dues shall be called Hospital Port-dues.

No order imposing or increasing hospital port-dues shall take effect until the expiration of sixty days from the day on which such order has been published in the official Gazette.

Whenever the Local Government is satisfied that proper provision has been made by the owners or agents of any ship or class of ships for giving medical aid to the seamen employed on board such ship or class of ships, it may, by notification in the official Gazette, exempt such ship or class of ships from any payment under this section. The Local Government may, by like notification, withdraw any such exemption.

60. Such hospital port-dues shall be applied, as the Local Government may direct, to the support of any such hospital or dispensary as aforesaid, or otherwise for providing sanitary superintendence and medical aid for the shipping in such port and for the seamen belonging to such ships, whether such seamen are ashore or afloat.  
 Application of hospital port-dues.

### *Fees for certain Services.*

61. Within any port subject to this Act, fees may be charged for pilotage, hauling, mooring, re-mooring, hooking, measuring, and other services rendered to vessels, at such rates as the Local Government may, from time to time, direct :  
 Fees for pilotage, hauling, re-mooring, &c.

Provided that, in the case of fees for pilotage, the previous sanction of the Governor General in Council has been obtained.

The fees now chargeable for such services shall continue to be chargeable unless and until they are altered in exercise of the power conferred by the former part of this section.

## CHAPTER VII.

### OF HOISTING SIGNALS.

62. The Master of every inward or outward-bound vessel, on arriving within signal-distance of any signal-station established within the limits of the river Hugli, or within the limits of any part of a river or  
 Master to hoist number of vessel.

channel subject to this Act shall, on the requisition of the pilot in charge of the vessel, signify the name of the vessel by hoisting the number by which she is known, or by adopting such other means to this end as may be practicable and usual, and shall keep the signal flying until it is answered from the signal-station.

63. Any Master of a vessel arriving as aforesaid, who refuses or neglects to conform to the above rule, shall be liable on conviction, for each instance of such refusal or neglect, to a fine not exceeding one thousand rupees.

64. Every pilot in charge of a vessel shall require the number of the vessel of which he is in charge to be duly signalled as provided under section sixty-two.

When, on a requisition from the pilot to that effect, the Master of a vessel refuses to hoist the number of a vessel, or to adopt such other means of making her name known as may be practicable and usual, the pilot in charge of such vessel may, on arrival at the first place of safe anchorage, anchor the vessel and refuse to proceed on his course until the requisition has been complied with.

65. Any pilot in charge of a vessel who disobeys, or abets within the meaning of the Indian Penal Code disobedience to, any of the provisions of this chapter, shall be liable to a penalty not exceeding five hundred rupees for each instance of such disobedience or abetment, and in addition shall be liable to dismissal from his appointment.

## CHAPTER VIII.

### OF PENALTIES.

66. All offences against this Act shall be triable by a Magistrate. And any Magistrate may, by warrant under his hand, cause the amount of any such penalty imposed upon the owner or Master of any vessel, for any offence committed on board of such vessel, or in the management thereof, or otherwise in relation thereto, whereof such owner or Master is convicted, to be levied by distress and sale of such vessel, and the tackle, apparel and furniture thereof, or so much thereof as is necessary.

67. In case of any conviction under this Act, the convicting Magistrate may order the offender to pay the costs of such conviction, in addition to any fine or expenses to which he may be liable.

Such costs may be assessed by the Magistrate, and may be levied and recovered in the same manner as any fine under this Act.

68. Whenever any person is liable, under the provisions of this Act, to pay any sum of money, damages, or expenses not exceeding one thousand rupees, the same may be recovered and levied in the same manner as any fine under this Act, and, if necessary, the amount thereof may be fixed and assessed by the Magistrate before whom the case is tried.

69. Whenever any fine, damages or expenses is or are levied under this Act, by distress and sale, the costs of such distress and sale may be levied in addition to such fine, damages or expenses, and in the same manner.

70. If any dispute arise concerning the amount leviable by any distress or arrest under this Act, or the charges or costs payable under the last preceding section, the person making such distress or using such arrest may detain the goods distrained or arrested, or the proceeds of the sale thereof, until the amount to be levied has been determined by a Magistrate, who, upon application made to him for that purpose, may determine such amount, and award such costs to be paid by either of the parties to the other of them as he thinks reasonable; and payment of such costs, if not paid on demand, shall be enforced in the same manner as any penalty under this Act.

71. Any person offending against the provisions of this Act, in any port, river or channel subject to this Act, shall be punishable by any Magistrate having jurisdiction over any district or place adjoining such port, river or channel, or adjoining either side of that part of the river or channel in which such offence is committed.

Such Magistrate may exercise all the powers of a Magistrate under this Act, in the same manner and to the same extent as if the offence had been committed locally

within the limits of his jurisdiction, notwithstanding the offence may not have been committed locally within such limits; and in case any such Magistrate exercise the jurisdiction hereby vested in him, the offence shall be deemed, for all purposes, to have been committed locally within the limits of his jurisdiction.

72. No conviction, order or judgment of any Magistrate under this Act shall be quashed on merits only.

Conviction to be quashed on merits only. shall be quashed for error of form or procedure, but only on the merits; and it shall not be necessary to state, on the face of the conviction, order or judgment, the evidence on which it proceeds.

If no jurisdiction appears on the face of the conviction, order or judgment, but the depositions taken supply that defect, the conviction, order or judgment shall be aided by what so appears in such depositions.

## CHAPTER IX.

### MISCELLANEOUS.

73. If any vessel belonging to any of Her Majesty's subjects, or sailing under British colours, hoist, carry or wear, within the limits of any port subject to this Act, any flag, jack, pendant or colours, the use whereof on board such vessel has been prohibited by the Statute 17th & 18th of Victoria, chapter 104, or any other Statute now or hereafter to be in force, or by any proclamation made or to be made in pursuance of any such Statute, or by any of Her Majesty's Regulations in force for the time being, the Master of such vessel shall, for every such offence, be punished with fine which may extend to fifty rupees.

Such fine shall be in addition to any other penalty recoverable under the said Statute or any future Statute to be made in that behalf.

Any officer of Her Majesty's Navy within the limits of such port, or the Conservator of such port, may enter on board any such vessel, and seize and take away any flag, jack, pendant or colour so unlawfully hoisted, carried or worn on board the same.

74. Any Magistrate, upon an application being made to him by the Consul of any Foreign Power to which the Foreign Deserters' Act, 1852, has been applied, or by an order of Her Majesty in Council been, or shall hereafter be, declared to be applicable, or by the representative of such Consul, and upon complaint on oath of the desertion of any seaman, not being a slave, from any ship of such Foreign Power, may, until a revocation of such Order in Council has been publicly notified, issue his warrant for the apprehension of any such deserter;

and, upon due proof of the desertion, may order him to be conveyed on board the vessel to which he belongs, or, at the instance of the Consul, to be detained in custody till the vessel is ready to sail, or, if the vessel has sailed, for a reasonable time not exceeding one month:

Provided that a deposit be first made of such sum as the Magistrate deems necessary for the subsistence of the deserter during such detention;

Provided also that the detention of such deserter shall not be continued beyond twelve weeks.

75. The provisions contained in sections eleven and twenty-two shall be applicable to all ports heretofore or hereafter declared by the Local Government to be ports for the shipment and landing of goods, but not otherwise subject to this Act, and may be enforced by any Magistrate to whose ordinary jurisdiction any such port is subject.

Any penalties imposed by him, and any expenses incurred by his order under the said provisions, shall be recoverable respectively in the manner provided in sections sixty-six and sixty-eight.

In any of the said ports for the shipment and landing of goods the consent referred to in section twenty-two may be given by the principal officer of customs at such port or by any other officer appointed in that behalf by the Local Government.

76. Any dispute arising concerning the amount due under section fifteen or section 43. shall be determined by a Magistrate upon application made to him for that purpose by either of the disputing parties.

77. Act No. XIII of 1867, section one, shall be read as if, for the words "and such Amendment of Act XIII port-due," the following words were substituted, namely,—“The of 1867. port-due leviable under the Indian Ports Act, 1875, in either of the ports of Maulmain and Bassein.”

THE FIRST SCHEDULE.

(See section 2.)

PART I.—BRITISH BURMA.

Name of Port.	Vessels Chargeable.	Rate of Port-dues.	Due how often chargeable in respect of same vessel.
Maulmain	Sea-going vessels of ten tons and upwards, but less than twenty-five tons.	Not exceeding four annas per ton.	Once in sixty days.
	Sea-going vessels of twenty-five tons and upwards.	Not exceeding five annas six pie per ton.	Ditto.
Rangoon	Sea-going vessels of ten tons and upwards.	Not exceeding six annas per ton.	Ditto.
Kyook Phyoo	Ditto	Not exceeding four annas per ton.	Ditto.
Akyab	Ditto	Ditto	Ditto.
Bassein	Sea-going vessels of ten tons and upwards, but less than twenty-five tons.	Ditto	Ditto.
	Sea-going vessels of twenty-five tons and upwards.	Not exceeding five annas six pie per ton.	Ditto.

PART II.—THE LOWER PROVINCES.

Name of Port.	Vessels Chargeable.	Rate of Port-dues.	Due how often chargeable in respect of same vessel.
Chittagong	Sea-going vessels of ten tons and upwards.	Not exceeding four and a half annas per ton.	Once in sixty days.
Port Canning	Sea-going vessels of twenty tons and upwards.	Not exceeding four annas per ton; provided that in the case of <i>dhonis</i> and country vessels employed in the coasting trade, the rate shall be one-half the rate chargeable in respect of other vessels.	Whenever the vessel enters the port, except in the case of <i>dhonis</i> and country vessels employed in the coasting trade, which shall not be chargeable with port-dues at the same port more than once in ninety days.

## THE FIRST SCHEDULE.—(Continued.)

(See section 2.)

## PART II.—THE LOWER PROVINCES.—(Continued.)

Name of Port.	Vessels Chargeable.	Rate of Port-dues.	Due how often chargeable in respect of same vessel.
Port Canning—continued.	Tug-steamers and river-steamers belonging to Port Canning.	Not exceeding four annas per ton.	Once between the 1st January and the 30th June, and once between the 1st July and the 31st December in each year.
Calcutta	Sea-going vessels of twenty tons and upwards.	Not exceeding four annas per ton; provided that in the case of <i>dhonis</i> and country vessels employed in the coasting trade, the rate shall be one-half the rate chargeable in respect of other vessels.	Whenever the vessel enters the port, except in the case of <i>dhonis</i> and country vessels employed in the coasting trade, which shall not be chargeable with port-dues at the same port more than once in sixty days.
	Tug-steamers and river-steamers.	Not exceeding four annas per ton.	Once between the 1st January and the 30th June, and once between the 1st July and 31st December in each year.
Cuttack Ports,—namely, Balasore, Chûráman, Laichunpur, Chánua, Subarnrekha, Dhámra and Sartha.	Sea-going vessels of three hundred maunds and upwards.	Not exceeding six annas per hundred maunds.	Whenever the vessel enters the port.

## PART III.—THE MADRAS PRESIDENCY.

Name of Port.	Vessels Chargeable.	Rate of Port-dues.	Due how often chargeable in respect of same vessel.
Eastern Group— 1. Ganjam	Sea-going vessels of fifteen tons and upwards.	Not exceeding three annas per ton; provided that in the case of vessels employed in the coasting trade, not being steamers, the rates shall be one-half the rates chargeable in respect of other vessels: provided also that any steamer engaged in the coasting trade, when it enters any of the ports of the Eastern and Western Groups, shall pay the highest rate of port-dues leviable at	(a.) No coasting steamer having paid port-dues at any port shall be chargeable with port-dues again at the same or at any other port of the same group within thirty days. (b.) No coasting vessel other than a coasting steamer shall be chargeable with port-dues at the same port more than once in sixty days.

THE FIRST SCHEDULE.—(Continued.)

(See section 2.)

PART III.—THE MADRAS PRESIDENCY.—(Continued.)

Name of Port.	Vessels Chargeable.	Rate of Port-dues.	Due how often chargeable in respect of same vessel.
<i>Eastern Group—continued.</i>			
1. Ganjam— <i>contd.</i>		any port of such group and an addition of half of such highest rate.	(c.) No vessel other than a coasting vessel or a coasting steamer shall be chargeable with port-dues at the same port more than once in ninety days.
2. Gopalpur ...	Sea-going vessels of fifteen tons and upwards.	Ditto ...	
3. Calingapatam ...	Ditto ...	Ditto ...	
4. Bimlipatam ...	Ditto ...	Ditto ...	In the above rules the expression "coasting vessel" means any vessel which at any port discharges cargo exclusively from, or takes in cargo exclusively for, any port on the Continent of India or in the Island of Ceylon.
5. Vizagapatam ...	Ditto ...	Ditto ...	
6. Coconada ...	} Ditto ...	Ditto ...	
7. Coringa* ...		Ditto ...	
8. Masulipatam ...	Ditto ...	Ditto ...	
9. Madras ...	Ditto ...	Ditto ...	
10. Cuddalore ...	Ditto ...	Ditto ...	
11. Porto Novo ...	Ditto ...	Ditto ...	
12. Tranquebar ...	Ditto ...	Ditto ...	
13. Negapatam ...	} Ditto ...	Ditto ...	
14. Nagore* ...		Ditto ...	
15. Tuticorin ...	Ditto ...	Ditto ...	
<i>Western Group—</i>			
1. Mangalore ...	Ditto ...	Ditto ...	
2. Cannanore ...	Ditto ...	Ditto ...	
3. Tellicherry ...	Ditto ...	Ditto ...	
4. Calicut ...	} Ditto ...	Ditto ...	
5. Beypore* ...		Ditto ...	
6. Cochin ...	Ditto ...	Ditto ...	

NOTE.—As regards the levy of port-dues, each of the following pairs of ports (namely)—Coconada and Coringa, Negapatam and Nagore, Calicut and Beypore—shall be treated as if it were only one port; every vessel in respect of which such dues have been charged and taken at one of any of the said pairs being exempted from the charge on entering the other of the same pair.



## THE FIRST SCHEDULE.—(Continued.)

(See section 2.)

## PART IV.—THE BOMBAY PRESIDENCY.

Name of Port.	Vessels Chargeable.	Rate of Port-dues.	Due how often chargeable in respect of same vessel.
Bombay ...	Sea-going vessels of ten tons and upwards (except fishing boats).	Not exceeding four annas per ton, and not less than two annas per ton for each class of vessels, as the Trustees incorporated under the Bombay Port Trust Act, 1873, may direct.	Once in the same month.
	Tug-steamers, Ferry-steamers and River-steamers.	Ditto ..	Once between the 1st January and the 30th June, and once between the 1st July and 31st December in each year.
<i>Northern Group of Ports—</i>			
1. Gogo ...	Sea-going vessels of ten tons and upwards (except fishing boats).	Not exceeding three annas per ton: provided that a coasting steamer whenever it enters any port shall be chargeable with the highest rate of port-dues leviable at any port of the group to which such port belongs and an addition of one-half of such highest rate.	Once in thirty days at the same port. Provided that no coasting vessel or coasting steamer, having paid port-dues at any port, shall be chargeable with port-dues again at the same or any other port of the same group within thirty days.
2. Bavliári ...	Ditto ...	Ditto ...	Ditto.
3. Khun ...	Ditto ...	Ditto ...	Ditto.
4. Tankária ...	Ditto ...	Ditto ...	Ditto.
5. Dehegám ...	Ditto ...	Ditto ...	Ditto.
6. Dehej ...	Ditto ...	Ditto ...	Ditto.
7. Broach ...	Ditto ...	Ditto ...	Ditto.
8. Bhagwá ...	Ditto ...	Ditto ...	Ditto.
9. Surat ...	Ditto ...	Ditto ...	Ditto.
10. Matwád ...	Ditto ...	Ditto ...	Ditto.
11. Bulsar ...	Ditto ...	Ditto ...	Ditto.
12. Umarsári ..	Ditto ...	Ditto ...	Ditto.
13. Kolak ...	Ditto ...	Ditto ...	Ditto.
14. Kálai ...	Ditto ...	Ditto ...	Ditto.
15. Maroli ...	Ditto ...	Ditto ...	Ditto.

## THE FIRST SCHEDULE.—(Continued.)

(See section 2.)

## PART IV.—THE BOMBAY PRESIDENCY.—(Continued.)

Name of Port.	Vessels Chargeable.	Rate of Port-dues.	Due how often chargeable in respect of same vessel.
<i>Northern Group of Ports.—contd.</i>			
16. Umbargám ...	Sea-going vessels of ten tons and upwards (except fishing boats)	Not exceeding three annas per ton : provided that a coasting steamer whenever it enters any port shall be chargeable with the highest rate of port-dues leviable at any port of the group to which such port belongs and an addition of one-half of such highest rate.	Once in thirty days at the same port. Provided that no coasting vessel or coasting steamer, having paid port-dues at any port, shall be chargeable with port-dues again at the same or any other port of the same group within thirty days.
17. Gholwad ...	Ditto ...	Ditto ...	Ditto.
18. Dáhnú creek ...	Ditto ...	Ditto ...	Ditto.
19. Tárápur ...	Ditto ...	Ditto ...	Ditto.
20. Alivará Navápur	Ditto ...	Ditto ...	Ditto.
21. Sápáti creek	Ditto ...	Ditto ...	Ditto.
22. Máhim (Kelva)	Ditto ...	Ditto ...	Ditto.
23. Kelva ...	Ditto ...	Ditto ...	Ditto.
24. Dántivra ...	Ditto ...	Ditto ...	Ditto.
25. Arnála ...	Ditto ...	Ditto ...	Ditto.
<i>Southern Group of Ports—</i>			
1. Bandora ...	Ditto ...	Ditto ...	Ditto.
2. Veráva ...	Ditto ...	Ditto ...	Ditto.
3. Manori ...	Ditto ...	Ditto ...	Ditto.
4. Utan ...	Ditto ...	Ditto ...	Ditto.
5. Bassein ...	Ditto ...	Ditto ...	Ditto.
6. Bhiwandi ...	Ditto ...	Ditto ...	Ditto.
7. Kallian ...	Ditto ...	Ditto ...	Ditto.
8. Tanna ...	Ditto ...	Ditto ...	Ditto.
9. Trombay ...	Ditto ...	Ditto ...	Ditto.
10. Panwel ...	Ditto ...	Ditto ..	Ditto.
11. Karanja ...	Ditto ...	Ditto ...	Ditto.
12. Rewas ...	Ditto ...	Ditto ...	Ditto.

## THE FIRST SCHEDULE.—(Continued.)

(See section 2.)

## PART IV.—THE BOMBAY PRESIDENCY.—(Continued.)

Name of Port.	Vessels Chargeable.	Rate of Port-dues.	Due how often chargeable in respect of same vessel.
<i>Southern Group of Ports.—contd.</i>			
13. Nagothna ...	Sea-going vessels of ten tons and upwards (except fishing boats).	Not exceeding three annas per ton: provided that a coasting steamer whenever it enters any port shall be chargeable with the highest rate of port-dues leviable at any port of the group to which such port belongs and an addition of one-half of such highest rate.	Once in thirty days at the same port. Provided that no coasting vessel or coasting steamer, having paid port-dues at any port, shall be chargeable with port-dues again at the same or any other port of the same group within thirty days.
14. Thal ...	Ditto ...	Ditto ...	Ditto.
15. Alibág ...	Ditto ...	Ditto ...	Ditto.
16. Revdandá ...	Ditto ...	Ditto ...	Ditto.
17. Talkhári ...	Ditto ..	Ditto ...	Ditto.
18. Bānkot ...	Ditto ...	Ditto ...	Ditto.
19. Kelsi ...	Ditto ...	Ditto ...	Ditto.
20. Harnai ...	Ditto ...	Ditto ...	Ditto.
21. Anjanwel ...	Ditto ...	Ditto ...	Ditto.
22. Boryá ...	Ditto ...	Ditto ...	Ditto.
23. Jaygarh ...	Ditto ...	Ditto ...	Ditto.
24. Ratnágiri ...	Ditto ...	Ditto ..	Ditto.
25. Purnagarh ...	Ditto ...	Ditto ...	Ditto.
26. Yeshwantgarh	Ditto ...	Ditto ...	Ditto.
27. Viziádurg ...	Ditto ...	Ditto ...	Ditto.
28. Devgarh ...	Ditto ...	Ditto ...	Ditto.
29. Áchara ...	Ditto ...	Ditto ...	Ditto.
30. Málwan ...	Ditto ...	Ditto ...	Ditto.
31. Nivti .	Ditto ...	Ditto ...	Ditto.
32. Vengorla ...	Ditto ...	Ditto ...	Ditto.
33. Reri ...	Ditto ...	Ditto ...	Ditto.
34. Tirekhol ..	Ditto ...	Ditto ...	Ditto.
35. Karwar including Baikhol.	Ditto ...	Ditto ...	Ditto.

## THE FIRST SCHEDULE — (Concluded.)

(See section 2.)

## PART IV.— THE BOMBAY PRESIDENCY.— (Concluded )

Name of Port.	Vessels Chargeable.	Rate of Port-dues.	Due how often chargeable in respect of same vessel.
<i>Southern Group of Ports.—concluded.</i>			
36. Chendya ...	Sea-going vessels of ten tons and upwards (except fishing boats).	Not exceeding three annas per ton: provided that a coasting steamer whenever it enters any port shall be chargeable with the highest rate of port-dues leviable at any port of the group to which such port belongs and an addition of one-half of such highest rate.	Once in thirty days at the same port. Provided that no coasting vessel or coasting steamer, having paid port-dues at any port, shall be chargeable with port-dues again at the same or any other port of the same group within thirty days.
37. Ankola ...	Ditto ...	Ditto ...	Ditto.
38. Gangawli ...	Ditto ...	Ditto ...	Ditto.
39. Tadri ...	Ditto ...	Ditto ...	Ditto.
40. Honáwar ...	Ditto ...	Ditto ..	Ditto.
41. Shiráli ...	Ditto ..	Ditto ...	Ditto.
42. Coomta ...	Ditto ..	Ditto ...	Ditto.
43. Mudheswar ..	Ditto ..	Ditto ...	Ditto.
44. Bhatkal ...	Ditto ...	Ditto ...	Ditto.
Karáchi ...	Ditto ...	Four annas per ton	Once in three months.
	Tug-steamers and river-steamers.	Ditto ...	Once between the 1st January and the 30th day of June, and once between the 1st July and the 31st December in each year.
Aden ...	Sea-going vessels of ten tons and upwards.	Three annas per ton	Once a month.

## THE SECOND SCHEDULE.

(See section 3.)

Number and Year.	Subject.	Extent of Repeal.
Act XIII of 1839 ...	Port duties.	So much as has not been repealed.
Act XXII of 1855 ...	Ports and Port-dues.	Ditto.

## THE SECOND SCHEDULE.—(Concluded.)

(See section 3.)

Number and Year.	Subject.	Extent of Repeal.
Act XIII of 1856 ...	Police in Presidency Towns.	Section 117.
Act XXX of 1857 ...	Port-dues and Fees (Calcutta).	The whole.
Act XXXI of 1857 ...	Port-dues and Fees (Bombay).	Ditto.
Act XXXV of 1857 ...	Port-dues and Fees (Maulmain, Rangoon, &c.)	Ditto.
Act II of 1858 ...	Port-dues and Fees in certain Ports in the Province of Cuttack.	Ditto.
Act VIII of 1858 ...	Port-dues and Fees (Karáchi).	Ditto.
Act XV of 1858 ...	Port-dues and Fees (Port of Aden).	Ditto.
Act XVIII of 1858 ...	Port dues and Fees (certain Madras Ports).	Ditto.
Act XIX of 1860 ...	Amending Act XXII of 1855.	Ditto.
Act XXV of 1860 ...	Bassein.	Ditto.
Act XIII of 1867 ...	Amending Act XXV of 1860.	In the title, the words " <i>for the levy of enhanced Port-dues in the Ports of Maulmain and Bassein, and</i> " The preamble down to and including the words "mentioned ; And" Section one down to and including the word "Bassein."
Act VII of 1873 ...	Burma Port-dues.	The whole.
Bengal Act I of 1862 ...	Hoisting Signals.	Ditto.
Bengal Act I of 1863 ...	Port-dues and Fees in the Port of Canning on the River Mutlah.	Ditto.
Bengal Act III of 1865	Fire in Ports.	Sections 3 and 4. Section 8, clauses 1 and 2. Section 10.
Bengal Act IV of 1866	Amending Act XIII of 1856.	Section 103.
Bengal Act III of 1867	Ships in Ports.	Sections 7, 11, 12 and 13.
Bengal Act III of 1872	Amending Bengal Act V of 1870 and Act XXII of 1855.	Section 5.
Madras Act I of 1864...	Extension of parts of Act XXII of 1855.	The whole.
Madras Act VII of 1867	Port-dues.	Ditto.
Madras Act VIII of 1867	Madras Police.	Section 80.
Bombay Act IV of 1863	Amending Act XV of 1858 (Port-dues, Aden).	The whole.
Bombay Act XI of 1866	Port-dues.	Ditto.
Bombay Act I of 1873	Bombay Port Trust Act, 1873.	Section 75.

ACT XIII OF 1875.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor General on the 15th March 1875.)

*An Act to amend the law relating to Probates and Letters of Administration.*

**Preamble.** WHEREAS, under the Indian Succession Act, 1865, the effect of an unlimited grant of probate or letters of administration made by any Court in British India is confined to the Province in which such grant is made: And whereas it is expedient to extend over British India the effect of such grants when made by a High Court: And whereas it is also expedient to amend the Court Fees Act, 1870, as to probates, letters of administration and certificates of administration: It is hereby enacted as follows:—

1. To section 3 of the Indian Succession Act, 1865, the following words shall be added (namely):—"and for the purposes of sections 242, 242A, 246A and 277A, shall include the Court of the Recorder of Rangoon."

Addition to Act No. X of 1865, section 242.

Effect of unlimited probates, &c., granted by High Court.

Addition to Act No. X of 1865.

Transmission of certificate by High Court granting probate, &c., to other Courts.

2. To section 242 of the Indian Succession Act, 1865, the following proviso shall be added (namely):—

"Provided that probates and letters of administration granted by a High Court after the first day of April, 1875, shall, unless otherwise directed by the grant, have like effect throughout the whole of British India."

3. The following section shall be inserted after the said proviso (namely):—

"242A. Whenever a grant of probate or letters of administration is made by a High Court with such effect as last aforesaid, the Registrar or such other officer as the High Court making the grant appoints in this behalf shall send to each of the other High Courts a certificate to the following effect:—

I, *A. B.*, Registrar [*or as the case may be*] of the High Court of Judicature at [*or as the case may be*], hereby certify that on the day of 187 the High Court of Judicature at [*or as the case may be*] granted probate of the will [*or letters of administration of the estate*] of *C. D.*, late of decensed, to *E. F.* of and *G. H.* of , and that such probate [*or letters*] has [*or have*] effect over all the property of the deceased throughout the whole of British India;

and such certificate shall be filed by the High Court receiving the same."

Addition after section 246 of Act X of 1865.

4. After section 246 of the Indian Succession Act, 1865, the following section shall be inserted (namely):—

"246A. Every person applying to a High Court for probate of a will or letters of administration of an estate, intended to have effect throughout British India, shall state in his petition, in addition to the matters respectively required by section 244 and section 246 of this Act that to the best of his belief no application has been made to any other High Court for a probate of the same will or for letters of administration of the same estate, intended to have such effect as last aforesaid,

or, where any such application has been made, the High Court to which it was made, the person or persons by whom it was made, and the proceedings (if any) had thereon.

And the High Court to which any application is made under the proviso to section 242 of this Act may, if it think fit, reject the same."

Addition after section 277 of Act X of 1865.

5. After section 277 of the Indian Succession Act, 1865, the following section shall be inserted (namely):—

**"277A.** In all cases where it is sought to obtain a grant of probate or letters of administration intended to have effect throughout the whole of British India, the executor, or the person applying for administration after the first day of April, 1875, to the effects of any person dying in British India and leaving property in more than one Province, shall include in the inventory of the effects of the deceased his moveable or immoveable property situate in each of the Provinces:

And the value of such property situate in the said Provinces, respectively, shall be separately stated in such inventory, and the probate or letters of administration shall be chargeable with a fee corresponding to the entire amount or value of the property affected thereby wheresoever situate within British India."

Addition to Act No. VII of 1870.

6. After section nineteen of the Court Fees Act, 1870, the following chapter shall be inserted (namely):—

### "CHAPTER IIIA.

#### "PROBATES, LETTERS OF ADMINISTRATION AND CERTIFICATES OF ADMINISTRATION.

**"19A.** Where any person on applying for the probate of a will or letters of administration has estimated the property of the deceased to be of greater value than the same has afterwards proved to be, and has consequently paid too high a Court-fee thereon, if within six months after the true value of the property has been ascertained, such person produces the probate or letters to the Chief Controlling Revenue Authority of the Province in which the probate or letters has or have been granted,

and delivers to such Authority a particular inventory and valuation of the property of the deceased, verified by affidavit or affirmation,

and if such Authority is satisfied that a greater fee was paid on the probate or letters than the law required,

the said Authority may—

(a) cancel the stamp on the probate or letters, if such stamp has not been already cancelled;

(b) substitute another stamp for denoting the Court-fee which should have been paid thereon; and

(c) make an allowance for the difference between them as in the case of spoiled stamps, or repay the same in money, at his discretion.

**"19B.** Whenever it is proved to the satisfaction of such Authority that an executor or administrator has paid debts due from the deceased to such an amount as, being deducted out of the amount or value of the estate, reduces the same to a sum which, if it had been the whole gross amount or value of the estate, would have occasioned a less Court-fee to be paid on the probate or letters of administration granted in respect of such estate than has been actually paid thereon under this Act,

such Authority may return the difference, provided the same be claimed within three years after the date of such probate or letters.

But when, by reason of any legal proceeding, the debts due from the deceased have not been ascertained and paid, or his effects have not been recovered and made available, and in consequence thereof the executor or administrator is prevented from claiming the return of such difference within the said term of three years, the said Authority may allow such further time for making the claim as may appear to be reasonable under the circumstances.

**"19C.** Whenever such a grant of probate or letters of administration has been or is made in respect of the whole of the property belonging to an estate, and the full fee chargeable under this Act has been or is paid thereon, no fee shall be chargeable under the same Act when a like grant is made in respect of the whole or any part of the same property belonging to the same estate;

Whenever such a grant has been or is made in respect of any property forming part of an estate, the amount of fees then actually paid under this Act shall be deducted when a like grant is made in respect of property belonging to the same estate, identical with or including the property to which the former grant relates.

"19D. The probate of the will, or the letters of administration of the effects, of any person deceased heretofore or hereafter granted shall be deemed valid and available by his executors or administrators for recovering, transferring or assigning any moveable or immoveable property whereof or whereto the deceased was possessed or entitled, either wholly or partially as a trustee, notwithstanding the amount or value of such property is not included in the amount or value of the estate in respect of which a Court-fee was paid on such probate or letters of administration.

"19E. Where any person on applying for probate or letters of administration has estimated the estate of the deceased to be of less value than the same has afterwards proved to be, and has in consequence paid too low a Court-fee thereon, the Chief Controlling Revenue Authority of the Province in which the probate or letters has or have been granted, may, on the value of the estate of the deceased being verified by affidavit or affirmation, cause the probate or letters of administration to be duly stamped on payment of the full Court-fee which ought to have been originally paid thereon in respect of such value and of the further penalty, if the probate or letters is or are produced within one year from the date of the grant, of five times, or if it or they is or are produced after one year from such date, of twenty times, such proper Court-fee, without any deduction of the Court-fee originally paid on such probate or letters :

Provided that, if the application be made within six months after the ascertainment of the true value of the estate and the discovery that too low a Court-fee was at first paid on the probate or letters, and if the said Authority is satisfied that such fee was paid in consequence of a mistake or of its not being known at the time that some particular part of the estate belonged to the deceased, and without any intention of fraud or to delay the payment of the proper Court-fee, the said Authority may remit the said penalty, and cause the probate or letters to be duly stamped on payment only of the sum wanting to make up the fee which should have been at first paid thereon.

"19F. In case of letters of administration on which too low a Court-fee has been paid at first, the said Authority shall not cause the same to be duly stamped in manner aforesaid until the Administrator has given such security to the Court by which the letters of administration have been granted as ought by law to have been given in case the full value of the estate of the deceased had been then ascertained.

"19G. Where too low a Court-fee has been paid on any probate or letters of administration in consequence of any mistake, or of its not being known at the time that some particular part of the estate belonged to the deceased, if any executor or administrator acting under such probate or letters does not, within six months after the first day of April 1875, or after the discovery of the mistake or of any effects not known at the time to have belonged to the deceased, apply to the said Authority and pay what is wanting to make up the Court-fee which ought to have been paid at first on such probate or letters, he shall forfeit the sum of one thousand rupees and also a further sum at the rate of ten rupees per cent. on the amount of the sum wanting to make up the proper Court-fee.

"19H. The provisions of sections 19A to 19G (both inclusive) shall, *mutatis mutandis*, apply to certificates granted under Act No. XL of 1858 (for making better provision for the care of the persons and property of Minors in the Presidency of Fort William in Bengal) or Act No. XX of 1864 (for making better provision for the care of the persons and property of Minors in the Presidency of Bombay) and to the holders of such certificates."



## ACT XIV OF 1875.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

*(Received the assent of the Governor General on the 1st July 1875.)**An Act to amend the law relating to certain Courts and Offices in the Panjáb.*

Preamble.

WHEREAS it is expedient to amend the law relating to certain Courts and Offices in the Panjáb; It is hereby enacted as follows:—

Short title.

1. This Act may be called "The Panjáb Judicial Administration Act, 1875:—"

Local extent.

It extends to all the territories for the time being under the government of the Lieutenant-Governor of the Panjáb;

Commencement.

And it shall come into force on the passing thereof.

Repeal of Act XIX of 1865, s. 20.

2. Section twenty of the Panjáb Courts Act, 1865, is repealed in so far as it relates to the powers of a Deputy Commissioner.

The Local Government may confer powers—

3. All or any of the powers conferred by, or conferrable under, the said Act, or by or under any other enactment for the time being in force,

of a Tahsildár,

(a) on a Tahsildár, or

of a Deputy Commissioner.

(b) on a Deputy Commissioner as such or as a principal Civil Court of original jurisdiction,

may be conferred by the Local Government on any person they think fit.

4. Any person invested with powers under section three shall exercise such powers in such District or Districts, or in such portion of a District, as the Local Government may from time to time appoint in this behalf, and in such cases or classes of cases as the Deputy Commissioner of the District may from time to time, subject to any rules prescribed in this behalf by the Local Government, by general or special order direct.

Persons exercising such powers to be deemed to be Tahsildárs or Deputy Commissioners.

5. Any person exercising any of the said powers shall, for purposes of the law relating to appeals and for all other purposes connected with the exercise of such powers, be deemed to be a Tahsildár or Deputy Commissioner, as the case may be.

## ACT XV OF 1875.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

*(Received the assent of the Governor General on the 15th July 1875.)**An Act to amend the Panjáb Laws Act, 1872.*

WHEREAS, in order to provide for the establishment of Rural Police and for the more efficient administration of law in the Panjáb, it is expedient to amend the Panjáb Laws Act, 1872; It is hereby enacted as follows:—

Preamble.

Short title.

1. This Act may be called "The Panjáb Laws Amendment Act, 1875:—"

Local extent.

It extends to the territories for the time being under the government of the Lieutenant-Governor of the Panjáb;

Commencement.

And it shall come into force at once.

Addition to Act IV. of 1872.

2. The said Panjáb Laws Act, 1872, shall be read as if the following sections were inserted next after section thirty-nine thereof :—

“39A. The Local Government may establish a system of village-watchmen in any part of the territories under its administration and not comprised within the limits of a municipality, and in furtherance of this object may from time to time make rules to provide for the following matters :—

Power to establish village-watchman system and to make rules.

- (a) the definition of the limits of watchmen's beats ;
- (b) the determination of the several grades of watchmen, and the number of each grade to be appointed to each beat ;
- (c) the appointment, suspension, dismissal and resignation of watchmen of each grade ;
- (d) the equipment and discipline of, and the control and supervision over, such watchmen ;
- (e) the conferring upon them, and the exercise by them, of any powers, and the enjoyment by them of any protection or privilege, which may be exercised and enjoyed by a police-officer under any Act for the time being in force ;
- (f) the performance by them of such duties relating to police, sanitation or statistics, or for the benefit of the village-communities within their beat, as the Local Government thinks fit ;
- (g) the exercise of authority over, and the rendering of aid to, such watchmen, by the headmen of the villages comprised in their respective beats ;
- (h) the performance, by the headmen of the villages comprised in the beat, of any of the duties of a village-watchman in aid of, or substitution for, such watchman ;
- (i) the exercise, by such village-headmen, of any of the powers, and the enjoyment by them of any privilege or protection, of a village-watchman for the purposes referred to in clauses (g) and (h) of this section ;
- (j) the determination of the rate at which, and the mode in which, watchmen shall be paid, and of the mode in which their pay, the expenses of their equipment, and other charges connected with the village-watchman system, shall be provided for, whether out of cesses or funds already leviable or available in the villages comprised in the beat, or by a special tax in money or kind to be imposed on any class of persons residing or owning property in or resorting to such villages, or partly in one of these ways and partly in the other ;
- (k) the collection with or without the aid of the village-headmen, and by any process available for the realization of the land-revenue, of any tax imposed under clause (j) of this section, and the application of, and the mode of accounting for, the same ;
- (l) the efficient working of the village-watchman system generally.

“ Provided—

1st, that the rules to be made regarding the appointment of village-watchmen shall allow to the headmen of the villages comprised in the beat to which such a watchman is to be appointed, a power of nomination to be exercised in such manner, and subject to such reasonable conditions, as may be prescribed by such rules ;

2ndly, that the rules to be made under clause (j) of this section shall include provisions for recording and securing due consideration of the views and opinions of the headmen of such beat on the matters therein referred to.

“39B. Every person is bound to render to a village-watchman or village-headman discharging the duties of a police-officer under the rules made hereunder, all the assistance which he is bound to render to a police-officer.

Obligation to assist watchmen and headmen.

Person obstructing watchman or headman may be arrested without warrant.

“ Any person who obstructs such watchman or headman in the discharge of such duties may be arrested without warrant by a police-officer or by any village-headman or watchman empowered in this behalf by the Local Government.

**\* 39C.** Whenever it seems to the Local Government expedient that the duties of watch and ward and other internal police-service of any town or village not comprised within the limits of a municipality or within the limits of a village-watchman's beat as defined under the power conferred by section thirty-nine A, should be performed by police-officers enrolled under Act V of 1861, the Local Government may direct that the said service shall be so performed, and may also, with the previous sanction of the Governor General in Council, direct that the charges for the time being fixed by such Government on account of such service shall be defrayed by taxes to be levied in such town or village.

**\* 39D.** When the Local Government has, under section thirty-nine C, directed that taxes shall be levied in any town or village, the Deputy Commissioner may from time to time issue a public notice in such town or village, explaining the nature of the taxes he proposes to levy.

**\* Any inhabitant of such town or village objecting to the taxation thus proposed**  
Objections to taxation. may, within fifteen days from the publication of such notice, send his objection in writing to the Deputy Commissioner.

**\* After the expiry of fifteen days from the publication of the notice, the Deputy Commissioner may submit for the information of the Local Government a report of the proposal made by him. Such report shall contain specific mention of the objections (if any) urged to his proposal, and his opinion on such objections.**  
Procedure thereon.

**\* No such tax shall be levied until it has, upon such report, been approved by the Local Government.**

**\* 39E.** When any such tax has been so approved by the Local Government, the Deputy Commissioner may from time to time, subject to such rules consistent with this Act as the Local Government may from time to time prescribe, determine the rates at which it is to be levied.

**\* 39F.** The Local Government may from time to time make rules to provide for the collection of such taxes by any process available for the realization of the land-revenue, and to regulate the application and mode of accounting for the same.

**\* 39G.** All taxes and collections which have been hitherto levied for the purposes of village and town-police, or for the maintenance of village-watchmen, shall be deemed to have been levied in accordance with law.

**3.** Section fifty of the said Panjáb Laws Act is repealed, and in lieu thereof there shall be read the following :—

**\* 50.** The Local Government may from time to time make rules as to the matters mentioned in sections forty-three to forty-nine inclusive.

**\* All existing rules upon such matters, which might have been made under this section had it been in force, shall be deemed to have been made hereunder.**  
Existing rules.

**\* 50A.** No rules hereafter made by the Local Government under any power conferred by this Act shall be valid unless—  
Conditions of validity of rules hereafter made under this Act.

- (a) they are consistent with the laws for the time being in force in the Panjáb ;
- (b) they are published in the official Gazette ;
- (c) previous to such publication they are sanctioned by the Governor General in Council.

**\* 50B.** The Local Government may, in making any rule under any of the powers conferred by this Act, attach to the breach of it, in addition to any other consequences that would ensue from such breach, a punishment on conviction before a Magistrate not exceeding six months' imprisonment or three hundred rupees fine, or both.

# THE INDIAN TARIFF ACT, 1875.

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### SCHEDULE A.—IMPORT TARIFF.

### SCHEDULE B.—EXPORT TARIFF.

## ACT XVI OF 1875.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor General on the 5th August 1875.)

*An Act to amend the law relating to Customs Duties, and for other purposes.*

WHEREAS it is expedient to amend the law relating to the duties of customs on goods imported and exported by sea, and to restrict the export of opium, and to provide for the levy of duties on goods crossing the frontier of certain Foreign European Settlements in India and for fixing a maximum duty of excise on spirit manufactured in British India, and to amend the Consolidated Customs Act; It is hereby enacted as follows:—

Short title.	1. This Act may be called "The Indian Tariff Act, 1875 :"
Commencement.	And it shall come into force on the passing thereof.
Local extent.	This section and section twelve, clause three, apply to the whole of British India.

The rest of this Act extends to the whole of British India except Aden.

2. Act No. XVIII of 1870 (to enable the Government of India to exempt goods from Customs-duties), Act No. XIII of 1871 (to consolidate and amend the law relating to Customs-duties), and all notifications under either of the said Acts are hereby repealed.

3. Nothing herein contained affects Act No. VI of 1873 (to amend the law relating to the transshipment of goods imported by Steamer, and for other purposes), or authorizes the levy of duties of customs on any article carried from one port in British India to another, except salt, salted fish, opium and spirit.

Duties specified in schedules to be levied.

4. There shall be levied and collected, in every port to which this Act applies, the duties specified in schedules A and B hereto annexed.

5. Goods not prohibited to be imported into or used in British India, whereof any article liable to duty under this Act forms a part or ingredient, shall be chargeable with the full duty which would be payable on such goods if they were entirely composed of such article, or, if composed of more than one article liable to duty, then with the full duty which would be payable on such goods if they were entirely composed of the article charged with the highest rate of duty.

Power to fix value of dutiable goods and to exempt from customs-duties.

6. The Governor General in Council may from time to time, by notification in the *Gazette of India*,

(a) fix for the purposes of this Act the value of any goods exported or imported by sea on which duties of customs are hereby imposed ;

(b) exempt any goods imported or exported into or from British India, or into or from any specified port or place therein, from the whole or any part of the duties of customs to which they are liable under this Act or any other law for the time being in force ; and

(c) cancel any such exemption.

7. The Local Government may from time to time prescribe rules for ascertaining and determining what spirit imported into British India shall be deemed to have been effectually and permanently rendered unfit for human consumption, so as to be subject only to an *ad valorem* duty of ten per cent. under schedule A hereto annexed, and for causing such spirit to be so rendered, if necessary, by their own officers, before the duty of customs leviable thereon is levied, and at the expense of the person importing it.

Such rules, on being published in the official Gazette, shall have the force of law ; and whoever wilfully contravenes any such rule shall be liable to fine not exceeding five hundred rupees.

In the absence of any such rules, or if any dispute arise as to their applicability, the executive officer of highest rank in the department of customs in the port shall decide what spirit is subject only to the said *ad valorem* duty, and such decision shall be final.

8. On all pepper exported by sea from the port of Cochin there shall be levied such duty not exceeding nine rupees per khandi as the Governor of Fort Saint George in Council from time to time determines ; and at the close of each year, or as soon thereafter as may be convenient, the Collector of Customs at the said port shall, after deducting the expenses of collection, pay the duty collected under this section to the Governments of Travancore and Cochin in such proportion and in such manner as the Governor of Fort Saint George in Council from time to time directs.

Export of opium.

9. No opium shall be exported from any part of British India, unless—

(a) it is covered by a pass granted by an officer appointed in this behalf by the Governor General in Council or the Local Government ; or

(b) it is exported under the said Act No. VI of 1873, section seven ; or

(c) such export is permitted under the power next hereinafter conferred :

The Governor General in Council may from time to time, by notification in the *Gazette of India*,

(d) permit the export of opium from any part of British India on payment of such duty, or on such other terms, as the Governor General in Council thinks fit ; and

(e) cancel such permission.

Duties on goods crossing frontiers of Foreign European Settlements in Presidencies of Madras and Bombay.

10. Duties of customs shall be levied on goods passing by land into or out of Foreign European Settlements situate on the line of coast within the limits of the Presidency of Fort Saint George or the Presidency of Bombay at the rates prescribed in the schedules A and B hereto annexed.

11. And whereas it is expedient that the duty of excise on spirit distilled in British India should bear a due proportion to the customs-duty on spirit imported into British India, it is hereby further enacted as follows :—

Subject to any general rules or special orders which the Governor General in Council may from time to time make in this behalf, the Local Government may from time to time, by notification in the official Gazette, fix the duty of excise leviable on spirit manufactured in all or any of the distilleries situate in the territories under its administration, or in any part of such territories, at any rate not exceeding the rate fixed for imported spirit by schedule A hereto annexed ;

and all provisions now in force as to the levy of duty now chargeable on spirit shall apply to spirit upon which the duty declared under this section has not been paid.

Amendment of Consolidated Customs Act, sections 27, 57, 66 and 180.

12. And whereas it is expedient to amend the Consolidated Customs Act in manner hereinafter appearing ; it is hereby further enacted as follows :—

Section twenty-seven of the Consolidated Customs Act shall be construed as if, for the words “for which a specific value has not been fixed by the Local Government with the sanction of the Governor General of India in Council,” the following words and figures were substituted (namely), “for which a specific value is not fixed by or under the Indian Tariff Act, 1875 ;”

And the following proviso shall be added to section fifty-seven of the same Act (namely), “Provided also that where such goods are arms, ammunition, or military stores, they may be sold or otherwise disposed of at such place (whether within or without British India) and in such manner as the Local Government may from time to time direct ;”

And section sixty-six of the same Act shall be construed as if, for the words and figures “the value of which shall have been fixed under the provisions of section CLXXIX of this Act,” the following words and figures were substituted (namely), “for which a specific value has been fixed by or under the Indian Tariff Act, 1875 ;”

And section one hundred and eighty of the same Act shall be construed as if, for the words “last preceding section,” the following words and figures were substituted (namely), “Indian Tariff Act, 1875.”

## SCHEDULE A.

### IMPORT TARIFF.

No.	NAMES OF ARTICLES.	PER	TARIFF VALUATION.	RATE OF DUTY.
1	APPAREL, INCLUDING HABERDASHERY AND MILLINERY, BUT EXCLUDING BOOTS, SHOES AND HOSIERY . . . . .	...	Rs. A.  <i>Ad valorem</i>	5 per cent.
2	ARMS, AMMUNITION AND MILITARY STORES— Firearms and parts thereof Gunpowder, common " sporting All other sorts	... lb. " "	<i>Ad valorem</i> 0 5 1 0 <i>Ad valorem</i>	} 10 per cent.

## IMPORT TARIFF.—(Continued.)

No.	NAMES OF ARTICLES.	PER	TARIFF VALUATION.	RATE OF DUTY.
3	BRUSHES, ALL SORTS ... ..	...	Rs. A. <i>Ad valorem</i>	} 5 per cent.
4	BUILDING AND ENGINEERING MATERIALS—			
	Asphalt ... ..	..	<i>Ad valorem</i>	
	Cements, all sorts ... ..	...	"	
	Earthen-ware piping ... ..	...	"	
5	CABINET-WARE AND FURNITURE	...	<i>Ad valorem</i>	
6	CANDLES—			
	Paraffine ... ..	lb.	0 5	
	Spermaceti ... ..	"	0 8	
	Wax ... ..	"	1 0	
	All other sorts, including composition ... ..	"	0 5	
7	CANES, RATANS, ARTICLES MADE OF CANE OR RATAN, AND BASKET-WORK—			
	Canes, Malacca ... ..	doz.	1 0	
	Ratans ... ..	cwt.	7 0	
	All other sorts, except common bamboos, which are free	...	<i>Ad valorem</i>	
8	CARRIAGES AND COMPONENT PARTS THEREOF, EXCEPT RAILWAY CARRIAGES AND TRUCKS ...	...	<i>Ad valorem</i>	} 5 per cent.
9	CHEMICAL PRODUCTS AND PREPARATIONS—			
	Acid, Sulphuric ..	lb.	0 2	
	Alkali, country (sajji khár)	cwt.	2 0	
	Alum ... ..	"	4 0	
	Arsenic ... ..	"	25 0	
	" China mansil ... ..	"	16 0	
	Brimstone, flour ... ..	"	7 0	
	" roll ... ..	"	6 0	
	" rough ... ..	"	4 8	
	Copperas, green ... ..	"	3 0	
	Sal ammoniac ... ..	"	25 0	
	All other sorts ... ..	...	<i>Ad valorem</i>	
10	CHINESE AND JAPANESE-WARE, INCLUDING LACQUERED-WARE, BUT EXCLUDING EARTHENWARE, CHINA AND PORCELAIN ...	...	<i>Ad valorem</i>	
11	CLOCKS, WATCHES AND OTHER TIME-KEEPERS ... ..	...	<i>Ad valorem</i>	
12	COIR AND ARTICLES MADE OF COIR—			
	Matting ... ..	...	<i>Ad valorem</i>	
	Yarn of all kinds ... ..	cwt.	9 0	
	Other articles made of coir, except cables and rope ...	...	<i>Ad valorem</i>	

IMPORT TARIFF.—(Continued.)

No.	NAMES OF ARTICLES.	PER	TARIFF VALUATION.	RATE OF DUTY.
13	CORAL, REAL ... ..	...	Rs. A. <i>Ad valorem</i>	5 per cent.
14	CORDAGE AND ROPE, MADE OF ANY VEGETABLE FIBRE, EXCEPT COTTON AND JUTE—			
	Coir-cables, tarred ...	cwt.	10 0	
	Coir-rope ...	"	10 0	
	Cordage, hemp, European ...	"	20 0	
	" Manilla ...	"	25 0	
	Twine, European, ...	lb.	0 8	
	All other sorts ...	...	<i>Ad valorem</i>	
15	CORK AND ARTICLES MADE OF CORK—			
	Bottle-corks ...	gross	1 8	
	Vial-corks ...	"	0 8	
	All other sorts ...	...	<i>Ad valorem</i>	
16	COTTON AND ARTICLES MADE OF COTTON—			5 per cent.
	Cotton-hosiery ...	...	<i>Ad valorem</i>	
	Cotton, Raw, not the produce of Continental Asia or Ceylon	...	25 0	
	Cotton-rope ...	cwt.	50 0	
	Country Canvas ...	"		
	Piece Goods—			
	Grey—			
	Jaconets, exceeding 10 X 10 to the quarter-inch	lb.	0 12	
	Jaconets, other sorts ...	"	0 10½	
	Mulls ...	"	1 1	
	Printers ...	"	0 10½	
	Shirtings and Longcloths	"	0 9	
	T cloths, 18 reed and upwards, and Madapollams	"	0 9½	
	T cloths under 18 reed; jeans, domestics, sheetings and drills	"	0 8	
	Other sorts ...	...	<i>Ad valorem</i>	
	Sewing thread—			3½ per cent.
	Goa and country	cwt.	30 0	
	On reels or cards containing 100 yards each, and <i>pro rata</i> above and below* ...	gross	3 0	
	White and coloured ...	lb.	1 0	
	Twist—			
	Mule—No. 15 and lower			
	Nos. ...	lb.	0 5	
	Nos. 16 to 24 ...	"	0 7	
	" 25 to 32 ...	"	0 8	
	" 33 to 42 ...	"	0 9½	
	" 43 to 52 ...	"	0 11	
	" 53 to 60 ...	"	0 12½	
	" 61 to 70 ...	"	0 14	
	" 71 to 80 ...	"	0 15	

\* Duty to be charged either on the mark or on the actual length.



## IMPORT TARIFF.—(Continued.)

No.	NAMES OF ARTICLES.	PER	TARIFF VALUATION.	RATE OF DUTY.
	COTTON AND ARTICLES MADE OF COTTON— <i>contd.</i>		Rs. A.	
	Twist—			
	Mule.—And so on, one anna to be added to the valuation per lb. for every count of ten, or part of a count of ten, above 80.			
	Water—No. 20 and lower Nos. ...	lb.	0 8	} 3½ per cent.
	Nos. 21 to 30 ...	"	0 9½	
	" 31 to 40 ...	"	0 11½	
	" 41 to 50 ...	"	0 13	
	Above 50 ...	"	1 0	
	Twist, Orange, Red, and other colours except Turkey Red*	"	0 13	
	Twist, Turkey Red, all kinds*	"	1 6	
	Cotton goods, all other sorts ...		<i>Ad valorem</i>	
17	DRUGS AND MEDICINES, EXCEPT OPIUM—			
	Aloes, black ...	cwt.	11 0	
	" Socotra ...	"	25 0	
	Asafetida (hing) ...	"	55 0	
	" coarse (hingrá) ...	"	10 0	
	Camphor, Bhemsaini (baras) ...	lb.	80 0	
	" refined, cake ...	cwt.	65 0	
	" crude, in powder ...	"	40 0	
	Cassia lignea ...	"	38 0	
	Salep ...	"	80 0	
	Senna leaves ...	"	5 0	
	All other sorts, except quinine, which is free ...		<i>Ad valorem</i>	
18	DYEING AND COLOURING MATERIALS—			
	Aniline dyes—Magenta and Roseine ...	oz.	0 4	} 5 per cent.
	Cochineal ...	lb.	1 4	
	Gallnuts, country, Myrabolan ...	cwt.	4 0	
	" Persian ...	"	25 0	
	Madder or manjith ...	"	12 0	
	Orchilla weed ...	"	5 0	
	Sapan wood and root ...	"	5 0	
	All other sorts ...		<i>Ad valorem</i>	
19	EARTHEN-WARE) EXCEPT EARTHEN-WARE PIPING), CHINA, CHINA CLAY AND PORCELAIN		<i>Ad valorem</i>	
20	FIREWORKS—			
	China ...	Box of 133½ lbs.	30 0	
	All other sorts ...		<i>Ad valorem</i>	

\* Duty to be charged on the grey weight of the coloured yarn : when this is not ascertainable, the actual wharf weight, or invoice weight, to be taken.

## IMPORT TARIFF.—(Continued.)

No.	NAMES OF ARTICLES.	PER	TARIFF VALUATION.	RATE OF DUTY.
21	FLAX AND ARTICLES MADE OF FLAX— Canvas, European sail, not exceeding 40 yards ... Piece Goods ... All other sorts, including linen-thread ...	bolt ... ...	Rs. A. 15 0 <i>Ad valorem</i> "	5 per cent.
22	FRUITS AND VEGETABLES— Almonds without shell ... " in the shell ... Cajoo-kernels ... Cocoanuts ... " kernel-(khopra) ... Currants, European ... " Persian ... Dates, dry, in bags ... " wet, in bags ... " " in pots ... Figs, European ... " Persian, dried ... Garlic ... Pistachio-nuts ... Prunes, Bussorah ... Raisins, black, Persian Gulf, Red Sea, and Kishmish ... " Munakka, Persian Gulf, and Red Sea ... " Malaga and bloom... " other sorts ... Walnuts ... All other sorts, except Bed-mushk, Bajarbattu-nuts, and fresh fruits and vegetables not separately enumerated, which are free ...	cwt. " " thousand cwt. " " " " " " " " " " " " lb. ..... cwt. .....	30 0 11 0 10 0 30 0 8 8 35 0 12 0 4 8 3 8 7 0 42 0 6 8 5 0 20 0 16 0 16 0 7 0 0 10 <i>Ad valorem</i> 5 8 <i>Ad valorem</i>	
23	GLASS, GLASS-WARE, BEADS, FALSE PEARLS AND FALSE CORALS— Bangles, Glass, China, gilt... " " " not gilt ... Beads, China ... Corals, false ... Glass, China, of all colours... " Crown, coloured ... " " of sizes ... Pearls, false— Bájria ... Boria ... Jouria ... Nathia ... Tachea ... Wattanah ... All other sorts of beads, false pearls and glass, except bottles used to bottle beer, wine, spirit, or aerated waters, which are free ...	100 pairs " cwt. ..... 133½ lbs. 100 suppl. feet " lakh thousand lakh thousand " lakh .....	6 0 3 0 30 0 <i>Ad valorem</i> 32 0 25 0 7 0 5 0 1 4 8 0 0 6 1 0 10 0 <i>Ad valorem</i>	

## IMPORT TARIFF.—(Continued.)

No.	NAMES OF ARTICLES.	PER	TARIFF VALUATION.	RATE OF DUTY.
24	GUMS, GUM RESINS, AND ARTICLES MADE OF GUM OR GUM RESIN—		Rs. A.	
	Copal ... ..	cwt.	65 0	
	Cutch and Gambier ... ..	"	10 0	
	Gum Ammoniac... ..	"	12 0	
	" Arabic ... ..	"	15 0	
	" Bdellium (common gum) ... ..	"	5 0	
	" Benjamin... ..	"	40 0	
	" Bysabol (coarse myrrh) ... ..	"	12 0	
	" Olibanum or frankincense ... ..	"	12 0	
	Kino ... ..	"	10 0	
	Myrrh ... ..	"	30 0	
	" Persian (false) ... ..	"	3 0	
	Rosin ... ..	"	5 0	
	All other sorts ... ..	.....	Ad valorem	
25	HARDWARE AND CUTLERY, INCLUDING IRONMONGERY AND PLATED-WARE, BUT EXCLUDING MACHINERY AND THE COMPONENT PARTS THEREOF, WHICH ARE FREE, AND AGRICULTURAL IMPLEMENTS, WHICH ALSO ARE FREE ... ..	...	Ad valorem	
26	HEMP AND ARTICLES MADE OF HEMP—			5 per cent.
	Piece Goods ... ..	...	Ad valorem	
	All other sorts, except rope ... ..	...	"	
27	HIDES AND SKINS, EXCEPT RAW OR SALTED HIDES OR SKINS, WHICH ARE FREE—			
	Hides—			
	Border ... ..	each	30 0	
	Buffalo ... ..	score	80 0	
	Cow ... ..	"	60 0	
	Skins—			
	Calf ... ..	doz.	45 0	
	Chamois ... ..	"	6 0	
	Goat ... ..	score	16 0	
	Lamb ... ..	"	6 0	
	Roan ... ..	doz.	30 0	
	Sheep ... ..	score	11 0	
	All other sorts ... ..	...	Ad valorem	
28	INSTRUMENTS AND APPARATUS—			
	Musical ... ..	...	Ad valorem	
	Drawing, Measuring, Optical, Photographic (including materials for Photography), Surveying, and Surgical (including surgical appliances) ... ..	...	"	

**IMPORT TARIFF.—(Continued.)**

No.	NAMES OF ARTICLES.	PER	TARIFF VALUATION.	RATE OF DUTY.
29	IVORY AND IVORY-WARE— Unmanufactured— Elephants' grinders ... Elephants' tusks, each ex- ceeding 20 lbs. in weight.. Elephants' tusks, not less than 10 lbs. and not ex- ceeding 20 lbs. each ... Elephants' tusks, each less than 10 lbs. ... Sea-cow or moye teeth, each not less than 3 lbs. ... Sea-cow or moye teeth, each less than 3 lbs. ... Articles made of ivory ...	cwt. " " " " " "	Rs. A.  125 0 450 0 325 0 175 0 175 0 60 0 <i>Ad valorem</i>	} 5 per cent.
30	JEWELLERY, INCLUDING PLATE— Silver-ware, plain " embossed } Other " or chased } than All other sorts, except preci- } Euro- ous stones and pearls, which } pean. are free ... }	tolah " ... ...	1 2 1 8 <i>Ad valorem</i>	
31	LEATHER AND ARTICLES MADE OF LEATHER, INCLUDING BOOTS, SHOES, HARNESS AND SADDLERY, BUT EXCLUDING BELTING FOR DRIVING MACHINERY, WHICH IS FREE ...	... ... ...	<i>Ad valorem</i>	
32	LIQUORS— Ale, beer and porter ... Cider, and other fermented liquors ... Liqueurs ... Spirit, for use exclusively in arts or manufactures or in chemistry, which has been rendered effectually and permanently unfit for human consumption ...  Spirit, other sorts ...  Wines— Champagne and all other sparkling wines ... Claret, and still Burgundy All other sorts of still wines ...	{ Impl. Gallon or six quart bottles ... } " ... ... { Impl. Gallon or six quart bottles of the strength of London proof } { Impl. Gallon or six quart bot- tles ... } " "	... ... <i>Ad valorem</i> ... ... ... ... ...	One anna. Rs. 4. 10 per cent. [ Rs. 4, and the duty to be in- creased in pro- portion as the strength of the spirit exceeds London proof. Rs. 2-8. Re. 1. Re. 1-8.

## IMPORT TARIFF.—(Continued.)

No.	NAMES OF ARTICLES.	PER	TARIFF VALUATION.	RATE OF DUTY.
33	MATCHES, LUCIFER, AND ALL OTHER SORTS ... ..	...	Rs. A. <i>Ad valorem</i>	}
34	MATS— Floor-matting, China and Singapore, of all sorts ...	Hundred	70 0	
	All other sorts except coir-matting ... ..	...	<i>Ad valorem</i>	
35	METALS, UNWROUGHT, WROUGHT, AND ARTICLES MADE OF METALS—			
	Brass—			
	Beads, Ghingri, China ...	thousand	0 14	}
	Old ... ..	cwt.	35 0	
	Sheets, rolls, very thin ...	"	99 0	
	Wire ... ..	lb.	0 8	
	All other sorts ... ..	...	<i>Ad valorem</i>	
	Copper—			
	Australian cake ... ..	cwt.	50 0	
	Bolt ... ..	"	50 0	
	Brazier's ... ..	"	52 0	
	China cash ... ..	"	30 0	
	Japan ... ..	"	48 0	
	Nails and composition-nails	"	48 0	}
	Old ... ..	"	48 0	
	Pigs and slabs, foreign ...	"	46 0	
	Sheet, sheathing, and plate	"	52 0	
	Tiles, ingots, cakes and bricks ... ..	"	48 0	
	Other sorts, unmanufactured ... ..	...	<i>Ad valorem</i>	
	China, white copper-ware ...	lb.	1 2	
	Foil or dakpana ... ..	100 leaves	3 0	
	Wire ... ..	lb.	0 10	
	All other sorts ... ..	...	<i>Ad valorem</i>	
	Gold Leaf, European ... ..	100 leaves	3 0	}
	" Mock ... ..	20 books	5 0	
	Iron—			
	Anchors and cables ... ..	...	<i>Ad valorem</i>	
	Angle and T iron ... ..	...	"	
	Beams, pillars, girders, bridge-work, and other descriptions of iron, imported exclusively for building purposes ...	...	"	
	Flat, square and bolt, including Scotch ... ..	ton	100 0	
	Galvanised ... ..	cwt.	11 0	
	" Sheets and ridging ...	"	11 0	
	Hoop, plate and sheet ...	ton	135 0	
	Nails, rose, clasp, and flat-headed, rivets and washers	cwt.	12 8	}
	Nails, other sorts, including galvanised ... ..	...	<i>Ad valorem</i>	
	Nail-rod ... ..	ton	120 0	
	Old ... ..	cwt.	2 0	
	Pig ... ..	ton	55 0	

IMPORT TARIFF.—(Continued.)

No.	NAMES OF ARTICLES.	PER	TARIFF VALUATION.	RATE OF DUTY.
	METALS, UNWROUGHT, WROUGHT, AND ARTICLES MADE OF METALS— <i>contd.</i>		Rs. A.	
	Iron—			
	Pipes and tubes ... ..	...	<i>Ad valorem</i>	} 1 per cent
	Rice bowls . ... ..	set of ten	4 0	
	... ..	" six	2 0	
	Rod, " round, British, not exceeding half-inch diameter ... ..	ton	130 0	
	" exceeding half-inch diameter ... ..	"	100 0	
	Swedish, flat and square ... ..	"	160 0	
	Tinned plates ... ..	cwt.	15 0	} 5 per cent
	All other sorts, including wire, but excluding railway-materials, and kentledge, which last-named article is free ... ..	...	<i>Ad valorem</i>	
	Lametta, double reels ... ..	score	4 8	
	" single " ... ..	"	2 4	
	Lead—			
	Ore, Galena ... ..	cwt.	13 0	
	Pig ... ..	"	11 0	
	Pipes ... ..	...	<i>Ad valorem</i>	
	Sheets, tea ... ..	cwt.	20 0	
	" other sorts ... ..	"	12 0	
	Orsidue and brass-leaves, foreign, European ... ..	lb.	1 2	
	Orsidue and brass-leaves, China ... ..	"	0 14	
	Patent or Yellow Metals, sheathing, sheets, and bolts ... ..	cwt.	42 0	
	Ditto ditto old ... ..	"	37 0	
	Quicksilver ... ..	lb.	2 8	
	Shot, bird ... ..	cwt.	16 0	
	Steel, excluding railway-materials—			
	Blistered ... ..	"	9 0	
	British and foreign other than Swedish ... ..	"	9 0	
	Cast ... ..	"	25 0	
	Spring ... ..	"	10 0	
	Swedish ... ..	"	10 0	
	Tin, Block ... ..	"	50 0	
	" other sorts ... ..	...	<i>Ad valorem</i>	
	Zinc or Spelter—			
	Nails ... ..	cwt.	14 0	
	Plate and other shapes, soft ... ..	"	15 0	
	" " " " hard ... ..	"	11 0	
	Sheet or zinc sheathing ... ..	"	17 0	
	All other sorts ... ..	...	<i>Ad valorem</i>	
36	MILITARY AND OTHER UNIFORMS AND ACCOUTREMENTS, &c., EXCEPT UNIFORMS AND ACCOUTREMENTS IMPORTED BY A PUBLIC SERVANT FOR HIS PERSONAL USE, WHICH ARE FREE ... ..	...	<i>Ad valorem</i>	

## IMPORT TARIFF.—(Continued.)

No.	NAMES OF ARTICLES.	PER	TARIFF VALUATION.	RATE OF DUTY.
37	NAVAL STORES NOT OTHERWISE DESCRIBED, EXCEPT OAKUM, WHICH IS FREE ... ..	...	Rs. A. <i>Ad valorem</i>	5 per cent.
38	OILS—			
	Cassia ... ..	lb.	3 0	
	Cocoonut... ..	cwt.	15 0	
	Grass ... ..	lb.	1 12	
	Jinjili or til ... ..	cwt.	15 0	
	Kerosine, paraffine, petroleum, rock and shale oils of all descriptions ... ..	impl. gallon	• 0 12	
	Linseed, European .. ..	"	2 0	
	Naphtha .. ..	cwt.	30 0	
	Otto of sorts ... ..	oz.	10 0	
	Sandalwood ... ..	lb.	8 0	
	Turpentine .. ..	impl. gallon	1 10	
	Whale (except spermaceti) and fish ... ..	cwt.	15 0	
	Wood ... ..	"	15 0	
	All other sorts, except cocum and slush fat, which are free ... ..	• ...	<i>Ad valorem</i>	
39	OIL AND FLOOR CLOTH ... ..	...	<i>Ad valorem</i>	
40	OPIUM NOT COVERED BY A GOVERNMENT PASS ... ..	seer of 80 tolahs	...	Rs. 24.
41	PAINTS, COLOURS, PAINTERS' MATERIALS, AND COMPOSITIONS FOR APPLICATION TO LEATHER AND METALS—			5 per cent.
	Ochre other than European, all colours ... ..	cwt.	1 8	
	Paints of sorts ... ..	"	12 0	
	" Composition ... ..	"	25 0	
	" Patent driers ... ..	"	14 0	
	Prussian blue, China ... ..	lb.	0 8	
	" " European ... ..	"	1 8	
	Red lead ... ..	cwt.	14 0	
	Turpentine ... ..	impl. gallon	1 10	
	Verdigris ... ..	cwt.	75 0	
	Vermilion, Canton ... ..	box of 90 bundles.	150 0	
	White lead ... ..	cwt.	12 0	
	All other sorts ... ..	...	<i>Ad valorem</i>	
42	PAPER—			
	Wall-paper ... ..	...	<i>Ad valorem</i>	
43	PERFUMERY—			
	Atary, Persian ... ..	cwt.	15 0	
	Perfumed spirit in wood, or in bottles containing more than half a pint ... ..	impl. gallon.	...	
				Rs. 4.

IMPORT TARIFF.—(Continued.)

No.	NAMES OF ARTICLES.	PER	TARIFF VALUATION.	RATE OF DUTY.
	<b>PERFUMERY—<i>contd.</i></b>		<b>Rs. A.</b>	
	Rose-flowers, dried ...	cwt.	13 0	}
	Rose-water ...	impl. gallon	1 12	
	All other sorts, including per- fumed spirit in bottles con- taining not more than half a pint ...	...	<i>Ad valorem</i>	
44	PIECE GOODS, NOT OTHERWISE DESCRIBED ...	...	<i>Ad valorem</i>	
45	PIPES AND OTHER IMPROVEMENTS USED IN THE CONSUMPTION OF TOBACCO ...	...	<i>Ad valorem</i>	} 5 per cent.
46	PITCH, TAR AND DAMMER—			
	Bitumen ...	...	<i>Ad valorem</i>	
	Dammer ...	cwt.	5 0	
	Pitch, American and Euro- pean ...	"	6 0	
	" Coal ...	"	2 8	
	Tar, American and European ...	"	6 0	
	" Coal ...	"	2 8	
	" Mineral ...	...	<i>Ad valorem</i>	
47	PROVISIONS AND OILMAN'S STORES—			} 5 per cent.
	Bacon in canisters, jowls and cheeks ...	lb.	0 9	
	Beef and pork ...	} Tierce of three cwt. Barrel of two cwt.	60 0	
	Cheese ...		40 0	
	China preserves ...	lb.	0 10	
	Flour ...	Box of six jars	8 0	
	Ghee ...	Barrel or sack of 200lbs.	15 0	
	Groceries not otherwise de- scribed...	cwt.	36 0	
	Pork-hams ...	...	<i>Ad valorem</i>	
	Salted fish* ...	lb.	0 10	
	Tongues, salted ...	cwt.	...	
	Vinegar, European, in wood	...	12 annas.*	
	" Persian ...	Keg of six	10 0	} 5 per cent.
	" Country ...	impl. gallon	1 8	
	All other sorts, except bêche- de-mer, fish-maws, shark- fins, singally and sozille, which are free ...	"	0 12	
		"	0 6	
		...	<i>Ad valorem</i>	

\* Duty to be levied only on salted fish imported into the Bombay Presidency except Sindh, and into such other parts of British India as the Governor General in Council may, by notification in the *Gazette of India*, from time to time direct.



## IMPORT TARIFF.—(Continued.)

No.	NAMES OF ARTICLES.	PER	TARIFF VALUATION.	RATE OF DUTY.
48	RAILWAY MATERIALS— Of iron ... .. Steel rails and other articles made of steel intended for the permanent-way of rail- ways ... .. All other sorts, including car- riages and trucks ...	... ... ...	Rs. A. <i>Ad valorem</i> " <i>Ad valorem</i>	1 per cent. 5 per cent.
49	SALT— Imported into British Burma " into Bengal " into any other part of British India	Indian maund of 3,200 tolahs. " "	... ... ...	3 annas. Rs. 3-4. Re. 1-13.
50	SEEDS— Castor ... .. Cummin ... .. " black ... .. Linseed ... .. Methi ... .. Mustard, rape, or sarson ... Quince seed or bihi-dana ... Sozirá ... .. All other sorts, except seeds imported by any Public Society for gratuitous dis- tribution, which are free ...	cwt. " " " " " " "	4 8 13 0 4 8 5 8 4 0 4 8 30 0 20 0 <i>Ad valorem</i>	
51	SHELLS AND COWRIES— Chanks— Large shells, for cameos ... White, live ... .. " dead ... .. Cowras— From Mozambique and Zanzibar ... .. From other places ... .. Cowries— Bázár, common ... .. Maldivé ... .. Sankhli ... .. Yellow, superior quality ... Mother-of-pearl ... .. Tortoise-shell ... .. " nakh ... .. All other sorts, including nakhla	hundred " " " " " " cwt. " " " " lb. " "	10 0 6 0 3 0 3 0 0 8 2 8 10 0 50 0 5 0 30 0 6 0 1 0 <i>Ad valorem</i>	5 per cent.
52	SILK, AND ARTICLES MADE OF SILK— Floss ... .. Piece goods ... .. Raw Silk— Chaháram and Cochin China Mathow ... .. Other kinds of China ... .. Panjam and Kachra ... ..	lb. ... ... lb. " " "	8 0 <i>Ad valorem</i> 4 0 1 12 7 0 1 4	

IMPORT TARIFF.—(Continued.)

No.	NAMES OF ARTICLES.	PER	TARIFF VALUATION.	RATE OF DUTY.
	SILK, AND ARTICLES MADE OF SILK— <i>contd.</i>		Rs. A.	
	Raw Silk—	lb.		
	Persian ... ..	"	5 0	
	Siam ... ..	"	2 8	
	Sewing thread, China ... ..	"	8 0	
	All other sorts ... ..	...	<i>Ad valorem</i>	
53	SOAP ... ..	...	<i>Ad valorem</i>	
54	SPICES—			
	Aniseed star ... ..	cwt.	35 0	
	Betelnuts—			
	Goa ... ..	"	12 0	
	In the husk ... ..	thousand	2 0	
	White, Srivarddhan ... ..	cwt.	18 0	
	All other sorts ... ..	"	5 0	
	Chillies, dried ... ..	"	8 0	
	Cloves ... ..	"	40 0	
	" in seeds, Narlavang ... ..	"	16 0	
	Mace ... ..	lb.	1 2	
	Nutmegs ... ..	"	1 0	
	" in shell ... ..	"	0 8	
	Pepper, black and long ... ..	cwt.	25 0	
	" white ... ..	"	32 0	
	All other sorts ... ..	...	<i>Ad valorem</i>	
55	STATIONERY (EXCEPT PAPER, WHICH IS FREE) ... ..	...	<i>Ad valorem</i>	
56	SUGAR—			5 per cent.
	China, candy ... ..	cwt.	20 0	
	Loaf ... ..	"	23 0	
	Soft ... ..	"	13 8	
	All other sorts of saccharine produce ... ..	...	<i>Ad valorem</i>	
57	TEA—			
	Black ... ..	lb.	0 12	
	Green ... ..	"	1 4	
58	TOBACCO—			
	Manufactured ... ..	...	<i>Ad valorem</i>	
	Unmanufactured ... ..	...	"	
59	TOILET REQUISITES, NOT OTHERWISE DESCRIBED ... ..	...	<i>Ad valorem</i>	
60	TOYS AND REQUISITES FOR ALL GAMES ... ..	...	<i>Ad valorem</i>	
61	UMBRELLAS—			
	China paper kettisals ... ..	box of 110	30 0	
	Cotton, steel-ribbed ... ..	each	0 13	
	" cane-ribbed ... ..	"	0 12	
	" oiled, other than European ... ..	"	0 10	
	All other sorts ... ..	...	<i>Ad valorem</i>	

## IMPORT TARIFF.—(Concluded.)

No	NAMES OF ARTICLES.	PER	TARIFF VALUATION.	RATE OF DUTY.
62	WOOLLEN GOODS—		Rs. A.	} 5 per cent.
	Braid ... ..	...	<i>Ad valorem</i>	
	Hosiery ... ..	...	"	
	Piece-goods ... ..	...	"	
	All other sorts ... ..	...	"	

## SCHEDULE B.

## EXPORT TARIFF.

No.	NAMES OF ARTICLES	PER	TARIFF VALUATION.	RATE OF DUTY.
1	DYEING AND COLOURING MATERIALS—		Rs. A.	} Rs. 3.
	Indigo—			
	Leaves, green or dry ... ..	ton	...	
	Manufactured ... ..	Indian maund of 3,200 tolahs.	...	} 3 annas.
2	GRAIN AND PULSE—			
	Rice in the husk (paddy) ... ..	"	...	
	" not in the husk ... ..	"	...	} 4 per cent.
3	LAC—			
	Button ... ..	cwt.	65 0	
	Seed ... ..	"	45 0	
	Shell ... ..	"	80 0	
	Stick ... ..	"	35 0	
	All other sorts, except lac-dye, which is free ... ..	...	<i>Ad valorem</i>	

# THE BURMA COURTS ACT, 1875.

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## ACT XVII OF 1875.

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PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(*Received the assent of the Governor General on the 16th September 1875.*)

*An Act to consolidate and amend the law relating to the Courts in British Burma, and for other purposes.*

WHEREAS it is expedient to consolidate and amend the law relating to the Courts in British Burma, and to extend to that province certain Regulations of the Bengal Code ; It is hereby enacted as follows :—

### CHAPTER I.

#### PRELIMINARY.

- |                          |   |
|--------------------------|---|
| Short title.             | 1. This Act may be called "The Burma Courts Act, 1875 :"  |
| Extent.                  | It extends to all the territories for the time being under the administration of the Chief Commissioner of British Burma ;  |
| Commencement.            | And it shall come into force on the passing thereof.  |
| Repeal of Acts.          | 2. Acts No. VII of 1872 ( <i>to consolidate and amend the law relating to the Courts in British Burma</i> ), and No. I of 1873 ( <i>to amend the Burma Courts Act, 1872</i> ) are repealed. But all rules made, directions given and powers conferred under either of the said Acts shall be deemed to have been respectively made, given and conferred heretunder. |
|                          | And nothing herein contained shall render invalid the trials mentioned in section fourteen of the latter Act.   |
| Interpretation-clause.   | 3. In this Act—unless there be something repugnant in the subject or context—   |
| "Chief Commissioner."    | "Chief Commissioner" means the Chief Commissioner of British Burma :  |
| "High Court."            | "High Court" means the High Court of Judicature at Fort William in Bengal ; and   |
| "Judicial Commissioner." | "Judicial Commissioner" means the Judicial Commissioner of British Burma.   |

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### CHAPTER II.

#### LAW TO BE ADMINISTERED.

4. Where, in any suit or proceeding, it is necessary for any Court under this Act to decide any question regarding succession, inheritance, marriage or caste, or any religious usage or institution, the Buddhist law in cases where the parties are Buddhists, the Muhammadan law in cases where the parties are Muhammadans, and

the Hindú law in cases where the parties are Hindús, shall form the rule of decision, except in so far as such law has, by legislative enactment, been altered or abolished, or is opposed to any custom having the force of law in British Burma.

In cases not provided for by the former part of this section, or by any other law for the time being in force, the Court shall act according to justice, equity and good conscience.

5. Except as provided in section four, all questions arising in suits before the Recorder of Rangoon shall be dealt with and determined according to the law for the time being administered by the High Court in the exercise of its ordinary original civil jurisdiction.

Law to be administered in Court of Recorder of Rangoon.

### CHAPTER III.

#### OF THE COURT OF THE JUDICIAL COMMISSIONER AND THE COURTS SUBORDINATE THERE TO.

##### (a.) *Grades of Courts.*

6. Besides the Courts of Small Causes, the Court of the Recorder of Rangoon and the Special Court hereinafter mentioned, there shall be six grades of Civil Courts in British Burma, (namely) :—

- (a) the Court of the Extra Assistant Commissioner of the third class :
- (b) the Courts of the Extra Assistant Commissioner of the second class, the Extra Assistant Commissioner of the first class, and the Assistant Commissioner :
- (c) the Court of the Deputy Commissioner :
- (d) the Court of the Judge of the Town of Maulmain :
- (e) the Court of the Commissioner ; and
- (f) the Court of the Judicial Commissioner.

7. All existing Courts, corresponding to the Courts mentioned in clauses (a), (b), (c), (d), (e) and (f) of section six, and the presiding officers and the local limits of the jurisdiction thereof, respectively, shall be deemed to have been respectively established, appointed and fixed under this Act.

Confirmation of existing Courts and presiding officers.

##### (b.) *Number and local Jurisdiction of Courts.*

8. The Governor General in Council may from time to time vary the number of Courts of each grade established under this Act.

9. The Chief Commissioner may, with the previous sanction of the Governor General in Council, from time to time, vary the local limits of the jurisdiction of any Court mentioned in section six, clauses (a), (b), (c), (d), (e) and (f).

10. Every such Court—  
(a) be held at such place or places as may from time to time be directed by the Chief Commissioner ; or, in the absence of any such direction, at any place within the local limits of the Court's jurisdiction which the presiding officer thinks fit, and

Place for holding Court.

(b) use a seal of such form and dimensions as are for the time being prescribed by the Chief Commissioner.

Seal to be used.

11. The general superintendence over all the Courts mentioned in section six, clauses (a), (b), (c), (d) and (e), is vested in, and the said Courts shall be subordinate to, the Judicial Commissioner ; and, subject to such general superintendence, the Commissioner shall control the Courts of the Deputy Commissioners within his Division ; and the Deputy Commissioner shall control the Courts of grades (a) and (b) within his district.

Superintendence over Courts.



(c.) *Civil Jurisdiction.*

12. The Courts mentioned in the first column of the subjoined table shall ordinarily have such civil jurisdiction respectively, for the adjudication of suits as specified in the second column thereof :—

Name and grade of Court.	Extent of jurisdiction.
(a.) The Court of the Extra Assistant Commissioner of the third class.	Powers of a Civil Court where the amount or value of the subject-matter of the suit does not exceed five hundred rupees.
(b.) The Court of the Extra Assistant Commissioner of the second class, the Court of the Extra Assistant Commissioner of the first class, and the Court of the Assistant Commissioner.	Powers of a Civil Court where the amount or value of the subject-matter of the suit does not exceed three thousand rupees.
(c.) The Court of the Deputy Commissioner.	Powers of a Civil Court in all suits, whatever be the amount or value of the subject-matter thereof. Powers of a District Judge. Power to hear appeals from decrees and orders in original suit, and proceedings of the Courts of grades (a) and (b), where such appeal is allowed by law. Power to direct the business in the Courts of grades (a) and (b) to be distributed among such Courts in such way as he thinks fit.
(d.) The Court of the Judge of the Town of Maulmain.	Powers of a District Judge. Powers of a Civil Court, whatever be the amount or value of the subject-matter of the suit. Powers of a Court of Small Causes, where the amount or value of the subject-matter of the suit does not exceed one thousand rupees.
(e.) The Court of the Commissioner.	Power to withdraw any suit or appeal instituted in any Court within the local limits of his jurisdiction, except a Court of Small Causes or the Court of the Judge of the Town of Maulmain, and try such suit or appeal himself or refer it for trial to any subordinate Court of competent jurisdiction as to the amount or value of the subject-matter thereof. Power to hear appeals from decrees and orders in original suits and proceedings of the Court of grade (e), where such appeal is allowed by law.
(f.) The Court of the Judicial Commissioner.	Powers of a High Court, in relation to all Courts in British Burma, including Small Cause Courts, except the Court of the Recorder of Rangoon, and the Court of Small Causes of Rangoon. Power to remove and try any suit, appeal or other proceeding instituted in any subordinate Court except a Court of Small Causes, or to refer it to any Court of competent jurisdiction as to the value or amount of the subject-matter thereof. Power to hear appeals from decrees and orders in original suits and proceedings of the Court of the Commissioner, where such appeal is allowed by law.

Provided that, where a Court of Small Causes is established within the local limits of the jurisdiction of any Court of the said grade (a), (b) or (c), such Court shall not take cognizance of any suit cognizable by the Court of Small Causes so established.

(d.) *Special Civil Jurisdiction.*

Chief Commissioner may give special jurisdiction.

13. The Chief Commissioner may invest any Assistant Commissioner, or Extra Assistant Commissioner of the first or second class, with power to try suits, the subject-matter of which does not exceed in amount or value five thousand rupees.

Chief Commissioner may invest certain Courts with powers of Judge of Court of Small Causes.

14. The Chief Commissioner may invest any presiding officer of the Courts of grades (a) and (b) mentioned in section six with the powers of a Judge of a Court of Small Causes, to hear and determine suits of a nature cognizable by a Court of Small Causes, and the subject-matter of which is of such amount or value as the Chief Commissioner thinks fit, not exceeding five hundred rupees.

Any Court so invested shall, in the exercise of the powers so conferred, be governed by the provisions of the law for the time being in force regulating the procedure of Courts of Small Causes outside the towns of Calcutta, Madras and Bombay.

Power to extend Small Cause jurisdiction to Rs. 1,000.

15. The Chief Commissioner may extend the jurisdiction of any Court of Small Causes to suits of a nature cognizable by such Courts, of which the subject-matter does not exceed in amount or value one thousand rupees.

Exercise by one Court within limits of another of same class, of powers of latter.

16. The Chief Commissioner may empower the presiding officer of any Court mentioned in section six, clause (a), (b), (c), (d) or (e), to exercise the powers which might be exercised by the presiding officer of any other Court of the same grade within the local limits of the jurisdiction of the latter Court.

Power to confer powers of Deputy Commissioner's Court.

17. The Chief Commissioner may confer upon the officer in chief executive charge of any district the powers which might be exercised within such district by the Court of a Deputy Commissioner.

(e.) *Civil Procedure.*

Procedure when subject-matter of suit is situate within jurisdiction of different Courts.

18. Where a suit is brought for immoveable property situate within the local limits of the jurisdictions of different Courts included in the same Division, application for authority to proceed with the same shall be made to the Commissioner of the Division.

If the said Courts belong to different Divisions, the application shall be made to the Judicial Commissioner through the Commissioner of the Division in which the Court wherein the suit was instituted is included.

If either of the said Courts is the Court of the Recorder of Rangoon, the application shall be made to the Special Court hereinafter mentioned.

19. No presiding officer of any Court mentioned in section six, clause (a), (b), (c), (d), (e) or (f) shall, unless with the consent of the parties, or by the direction of the Chief Commissioner, try any suit or appeal in which he is a party or personally interested, or any appeal against a decree or order passed by himself; or shall adjudicate upon any proceeding connected with, or arising out of, such suit or appeal:

When any such suit, appeal or proceeding comes before the presiding officer of any Court subordinate to the Judicial Commissioner, he shall forthwith, unless the parties apply that he proceed with the case himself, transmit the record to the Court to which he is immediately subordinate, with a report of the circumstances of such transmission.

but in case of Court subordinate to Judicial Commissioner, to transfer to superior Court.

Such Court shall thereupon try the case itself, or transfer it for trial to any subordinate Court of competent jurisdiction as to the amount or value of the subject-matter.

Procedure thereon.

**Appeal to Judicial Commissioner from order passed by him in other capacity or in which he is interested.** In the event of an appeal being preferred to the Judicial Commissioner from a judgment or order passed by him in any other capacity, or in which he has any personal interest, he shall, unless the parties apply that he proceed with the case himself, report the fact to the Chief Commissioner, who shall either direct the Judicial Commissioner to try the case himself, or transfer it to the

**Court of the Recorder of Rangoon.**

**20. Notwithstanding anything contained in the Code of Civil Procedure, section six, every Deputy Commissioner may direct suits to be instituted in the Courts subordinate to him, according to such rules as to the description of the suits and the amount or value of their subject-matter as he from time to time, with the sanction of the Judicial Commissioner, prescribes in this behalf,**

**and may also, with the like sanction, direct the business of the said Courts to be distributed among them in such way as he thinks fit:**

**provided that no Court shall try any suit where the amount or value of the subject-matter exceeds its proper jurisdiction.**

**21. Notwithstanding anything contained in the same Code, sections 26 and 172, plaints may be written and evidence may be taken down in such language or languages as the Chief Commissioner from time to time directs in this behalf.**

#### (f.) Civil Appeals.

**21. Subject to any express provision to the contrary contained in any Act for the time being in force in British Burma, an appeal shall lie from the decrees and orders of the Courts of original civil jurisdiction in British Burma to the Courts empowered by this Act to hear appeals from such decrees and orders.**

**All such appeals presented between the fifth day of April, 1872, and the passing of this Act, shall be deemed to have been presented under this section.**

**22. The memorandum of appeal must, when the appeal lies to the Commissioner, be presented within six weeks, the period being reckoned from and exclusive of the day on which the decision or order appealed against was passed, and also exclusive of such time as may be requisite for obtaining a copy of such decision or order.**

**23. The Chief Commissioner may direct that the civil appellate jurisdiction of any Commissioner shall be transferred to the Judicial Commissioner, either wholly or in respect of a particular suit or class of suits, and either for a specified time or until further orders.**

**The Chief Commissioner may also at any time direct that any appellate jurisdiction which has been so transferred to the Judicial Commissioner shall revert to the Commissioner from whom it was so transferred.**

**24. The Appellate Court may confirm the decision of the Lower Court without summoning the respondent, if upon perusal of the judgment of the Lower Court and of the petition of appeal in the presence of the appellant or his pleader, there appear to the Appellate Court to be no reason to alter the decision appealed from.**

**25. When in the trial of any civil appeal the Appellate Court entertains a doubt in regard to a question of law or usage having the force of law, or as to the construction of a document, or as to the admissibility of any evidence affecting the merits of the case, such Court may draw up a statement of the point as to which it is in doubt, and refer it, with the Court's own opinion thereon, for the decision of the Judicial Commissioner.**

**26. The Judicial Commissioner shall, after considering the point so referred, send a ruling thereon to the Court by which the reference was made; and such Court shall, on the receipt of such ruling, proceed to dispose of the case in conformity therewith.**

**Costs of reference.**

**The costs, if any, consequent on any such reference to the Judicial Commissioner, shall be costs in the appeal out of which the reference arose.**

27. If in any suit the decision of the Deputy Commissioner or of the Commissioner, passed in appeal, reverse or modify the decision of the Court of original jurisdiction, the Judicial Commissioner may receive a second appeal, if, on a perusal of the grounds of appeal and of copies of the judgments of the subordinate Courts, a further consideration of the case appears to him to be requisite for the ends of justice.

When decision of first Appellate Court to be final. 28. If the Court of first appeal confirms the decision of the Court of original jurisdiction on a matter of fact, such decision shall be final.

Reference to Judicial Commissioner when decision of Lower Court confirmed on certain points. 29. If the Court of first appeal confirms the decision of the Court of original jurisdiction on a question of law or custom having the force of law, or the construction of any document, or the admissibility of any evidence affecting the merits of the case, the party aggrieved by such decision may apply to such Court to draw up a statement of the point as to which he considers such Court to have made an incorrect ruling, and to submit it to the Judicial Commissioner, or to allow him to appeal on the same point to the Judicial Commissioner.

Such application or appeal shall not be admitted, unless it is made within the period prescribed by law for petitions of appeal. And if the statement is drawn up, or the appeal is allowed, the applicant shall be chargeable with the fee prescribed by law for petitions of appeal.

In the case of an application to draw up a statement, if the Court consider that there is a question of law or custom having the force of law, or as to the construction of a document or admissibility of evidence affecting the merits of the case, it shall draw up a statement of the same and of such facts only of the case as are necessary to explain it, and shall submit such statement, together with the record of the case, to the Judicial Commissioner.

If the Court refuses to draw up such statement, it shall record in writing its reasons for so refusing, and a certified copy of such reasons shall, on application to the Court, be furnished to any party to the suit.

The costs of a statement drawn up under this section shall be costs in the cause. The costs of an application under this section to be allowed to appeal shall, if the appeal be allowed, be disposed of by the Court of appeal.

Procedure of Judicial Commissioner thereupon. 30. The Judicial Commissioner shall, with as little delay as possible, proceed to try the case referred, as if it were an appeal instituted in his Court, except that it shall not be necessary for the parties to be present :

the Judicial Commissioner shall send a copy of his judgment to the Court by which the case was submitted, and the said Court shall dispose of the case in conformity with such judgment.

Reference by Judicial Commissioner to High Court. 31. When the Judicial Commissioner entertains any doubt as to the decision to be passed on any appeal made or case referred under this Act, he may make a reference to the High Court, and shall send the record of the said appeal or case and all the proceedings connected therewith to the said Court.

Procedure thereupon. The procedure prescribed by section thirty shall, *mutatis mutandis*, be followed by the High Court in the disposal of references made under this section.

Provision as to costs. 32. The costs, if any, consequent on such reference shall be disposed of by the Judicial Commissioner.

Assessors for trial of civil appeals and references. 33. For the trial of any civil appeal or reference under this Act, the Judicial Commissioner may constitute two or more persons assessors of his Court. Such persons shall attend during the trial and shall deliver their opinions in writing to be recorded on the proceedings. But the decision of the case shall rest with the Judicial Commissioner.

No officer of the Judicial Commissioner's Court shall be appointed an assessor under this section.

**34.** In any case in which a Court of first appeal has, in the opinion of the Judicial Commissioner, wrongly refused to submit a statement or allow an appeal under section twenty-nine, the Judicial Commissioner may call for the record of the case, and may, on receipt of such record, proceed to try the case as if it were an appeal instituted in his own Court.

And in any case in which a Court of first appeal has submitted such a statement, but, in the opinion of the Judicial Commissioner, the statement is unduly limited, or justice cannot be done without rehearing the case, the Judicial Commissioner may proceed to try the case as if it were an appeal instituted in his own Court.

The Judicial Commissioner shall send to the Court of first appeal a copy of his judgment in any case tried under this section, and the said Court shall dispose of the case in conformity with such judgment.

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(g.) *Criminal Jurisdiction.*

**35.** The Judicial Commissioner shall be deemed to have and to have had the powers of a High Court under the Code of Criminal Procedure in criminal matters in relation to all Courts in British Burma, except that of the Recorder of Rangoon, and except those of Magistrates within the local limits of the ordinary civil jurisdiction of the said Recorder :

(a) of Judicial Commissioner,

The Commissioner shall be deemed to have and to have had the powers of a Sessions Judge :

(b) of Commissioner.

The Judge of the Town of Maulmain shall have the powers of a Sessions Judge.

(c) of Judge of Maulmain.

**36.** The Chief Commissioner may direct that the criminal jurisdiction of any Commissioner shall be transferred to the Judicial Commissioner either wholly or in respect of a particular case or class of cases, and either for a specified time or until further orders. The Chief Commissioner may also at any time direct that any jurisdiction so transferred shall revert to the Commissioner from whom it was transferred.

(h.) *Petitions to Judicial Commissioner when exercising transferred jurisdiction.*

Application of Acts VII of 1870 and IX of 1871 to certain petitions to Judicial Commissioner.

**37.** When the civil or criminal appellate jurisdiction of any Commissioner has, under section twenty-three or section thirty-six, been transferred to the Judicial Commissioner,

(a) all petitions and other documents presented to the Judicial Commissioner in the exercise of the jurisdiction so transferred shall, for the purposes of the Court Fees Act, 1870, be deemed to have been presented to the Commissioner : and

(b) all appeals and applications presented to the Judicial Commissioner in the exercise of the jurisdiction so transferred shall, for the purposes of the Indian Limitation Act, 1871, be deemed to have been presented to him in the exercise of his ordinary jurisdiction.

(i.) *Appointment and Removal of Officers.*

**38.** The presiding officers of all the Courts under this Act, except that of the Extra Assistant Commissioner of the third class, shall be appointed by the Governor General in Council.

Extra Assistant Commissioners of the third class shall be appointed and may be removed by the Chief Commissioner.

Suspension and removal of presiding officers.

**39.** The presiding officer of any Court under this Act may, for any misconduct, be suspended or removed by the Governor General in Council.

The presiding officer of any such Court, except the Courts of the Judicial Commissioner and the Recorder of Rangoon, may, for any misconduct, be suspended by the Chief Commissioner, but shall not be removed without the sanction of the Governor General in Council.

Appointment of ministerial officers of Courts (a) and (b) mentioned in section 4.

**40.** The ministerial officers of the Courts of grades (a) and (b) mentioned in section six shall be appointed by the Deputy Commissioner within whose local jurisdiction such Courts are situate.

The ministerial officers of all other Courts under this Act shall be appointed by the presiding officers thereof;

provided that the appointment of every ministerial officer of a Court subordinate to the Judicial Commissioner, whose monthly salary exceeds fifty rupees, shall be subject to the sanction of the Judicial Commissioner.

41. Every Court of the grades (a) and (b) mentioned in section six may fine in an amount not exceeding one month's salary any of its ministerial officers who is guilty of misconduct or neglect in the performance of the duties of his office.

Power to fine, suspend or remove such officers.

The Deputy Commissioner, subject to the general control of the Commissioner, may on appeal or otherwise reverse or modify any such order; and may of his own motion remove, suspend from office, or fine up to the amount of one month's salary, any ministerial officer of a Court subordinate to him.

The presiding officer of any of the Courts of grades (c), (d), (e) and (f) mentioned in section six, and of any Court of Small Causes, may remove or suspend the ministerial officers of his Court, or fine them in an amount not exceeding one month's salary; but in the case of Courts subordinate to the Judicial Commissioner, every such removal, suspension or fine shall be subject to review by him.

42. Any fine imposed under this chapter shall, if the order imposing it so directs, be recovered from the offender's salary.

Chief Commissioner's control over appointments, &c., of ministerial officers.

43. The Chief Commissioner shall have a power of general control over all appointments and removals of ministerial officers under this Act.

#### (k.) Holidays.

44. Subject to the orders of the Chief Commissioner, the Judicial Commissioner shall prepare a list of days to be observed in each year as close holidays in his Court and the Courts subordinate to him.

List of holidays.

Such list shall be published in the *British Burma Gazette*, and the days therein mentioned shall be observed accordingly.

### CHAPTER IV.

#### OF THE COURT OF THE RECORDER OF RANGOON.

##### (a.) The Recorder.

The Court of the Recorder of Rangoon.

45. There shall continue to be a Court, to be called the Court of the Recorder of Rangoon.

The Recorder shall be appointed by the Governor General in Council, and shall be a Barrister of not less than five years' standing, and shall hold his office during the pleasure of the Governor General in Council.

Appointment of Recorder.

He shall hold his Court ordinarily in the Town of Rangoon; but the Chief Commissioner may direct him on any particular occasion to hold his Court at Maulmain, Akyab or Bassein, for the trial of civil suits or appeals transferred to him, or of criminal cases in which European British subjects are concerned.

Place of holding Court.

Seal to be used.

The Recorders shall use a seal of such form and dimensions as are for the time being prescribed in this behalf by the Chief Commissioner.

Provision for discharge of duties of Recorder in case of vacancy in his office.

46. Upon the occurrence of any vacancy in the office of Recorder of Rangoon, and during any absence of the Recorder, the Chief Commissioner may direct the Judicial Commissioner or any Commissioner to perform the duties of the Recorder;

and the Judicial Commissioner or the Commissioner so directed shall thereupon be authorized to preside in the Court of the Recorder and to exercise the jurisdiction of the Recorder until some person has been appointed by the Governor General in Council to fill or officiate in the office of the Recorder, and has entered upon the discharge of the duties of such office, or until the Recorder resumes his duties.

(b.) *Civil Jurisdiction.*

47. The present local limits of the jurisdiction of the Recorder of Rangoon shall be the local limits of the ordinary civil jurisdiction of the Recorder appointed under this Act; but the Chief Commissioner may from time to time, with the previous sanction of the Governor General in Council, vary such limits.

48. The Court of the Recorder shall have jurisdiction in the adjudication of suits of every description, except those which are cognizable by a Court of Small Causes, if, in the case of immoveable property, the subject-matter of the suit is situate, or if, in all other cases, the cause of action or a material part thereof has arisen, or the defendant at the time of the commencement of the suit dwells, or either personally or by his servant or agent carries on business or works for gain, within the limits mentioned in section forty-seven.

A corporation or company having an office within such limits shall, when the cause of action, or a material part thereof, has arisen in British Burma, or in any foreign territory adjacent thereto, be deemed, for the purpose of this section, to carry on business at such office.

49. There shall be no appeal from the decree or order of the Recorder passed in any original suit or proceeding where the amount or value of the subject-matter does not exceed three thousand rupees.

But where the amount or value of the suit or proceeding in the Recorder's Court exceeds three thousand rupees, and is less than ten thousand rupees, an appeal shall lie to the High Court: provided that the amount or value of the matter in dispute on appeal must exceed the former sum and be less than the latter.

50. For the trial of civil suits the Recorder may constitute one or more persons assessor or assessors of the Court. Such person or persons shall attend during the trial of the suit, and shall deliver his or their opinion or opinions in writing, to be recorded on the proceedings. But the decision of the case shall rest with the Recorder.

No officer of the Recorder's Court shall be appointed an assessor under this section.

51. The Recorder shall, within the local limits of his ordinary civil jurisdiction, exercise the powers of a District Judge; and he shall also exercise the powers of a District Judge under Act No. IV of 1869 (*The Indian Divorce Act*) throughout British Burma.

52. The Recorder shall, in respect of the Court of Small Causes in Rangoon, exercise and perform the powers and duties of a High Court.

53. The Recorder may, if he thinks fit, grant a new trial in any suit tried by him, if, in suits relating to land or other immoveable property, such new trial be applied for within three months from the date of the decision, and, in all other cases, if it be applied for within thirty days from the date of the decision.

Provided that nothing hereinbefore contained shall interfere with the power of the Recorder to allow a review of judgment under the Code of Civil Procedure, if such review be applied for within the period allowed for making such applications.

Provided also that the Recorder may, if he thinks fit, before granting a new trial or a review, require the party applying for the same to give sufficient security for the due compliance with the terms of the decree or order which it is sought to set aside or review, or for the costs of the new trial or review.

54. If in any suit any question of law or usage having the force of law, or the construction of a document affecting the merits of the decision, arises, on which the Recorder entertains any doubt, he may, either of his own motion, or on the application of the parties to the suit or either of them, draw up a statement of the case, and refer such statement, with his own opinion, for the decision of the High Court.



55. The Recorder may proceed in the case notwithstanding a reference to the High Court, and may pass a decree contingent upon the decision of the High Court on the point referred; but no execution shall be issued in any case in which a reference has been made to the High Court, until the receipt of its decision on such reference.

56. Cases referred under section fifty-four for the decision of the High Court shall be dealt with by a bench of two or more Judges of that Court.

57. The parties to the case may appear and be heard in the High Court in person, or by an advocate or pleader; but they shall not be bound so to appear; and the High Court, when it has heard and considered the case, shall transmit a copy of its decision, under the seal of the Court and the signature of the proper officer, to the Recorder, who shall, on the receipt thereof, dispose of the case conformably to the decision of the High Court.

Costs of reference to High Court. Costs, if any, consequent on the reference of a case for the decision of the High Court, shall be costs in the suit.

58. The Chief Commissioner may direct the transfer to the Recorder's Court of any suit or appeal which may have been instituted in any other Court in British Burma.

Every case so transferred shall be tried and determined by the Recorder in the same manner as if he had originally had jurisdiction in such case and it had been instituted in his Court.

59. When any suit or proceeding comes before the Recorder of Rangoon, to or in which he is a party or personally interested, he shall, unless the parties apply that he proceed with the case himself, report the fact to the Chief Commissioner, who shall either direct the Recorder to try the case himself, or transfer it to the Court of the Judicial Commissioner.

The Judicial Commissioner shall have the same jurisdiction in the adjudication of cases so transferred as the Recorder has in suits and proceedings cognizable by him under this Act, and the provisions of sections fifty-three to fifty-seven inclusive shall, *mutatis mutandis*, apply to such cases.

### (c.) Criminal Jurisdiction.

60. The Recorder shall exercise the powers of a Court of Session, as defined in the Code of Criminal Procedure, within the local limits of his ordinary civil jurisdiction and (on the occasion and for the purpose mentioned in section forty-five, clause three,) at Maulmain, Akyab and Bassein:

Provided that sentences of death passed by him as a Court of Session shall be subject to the confirmation of the Special Court.

For the purposes of section 64A of the Code of Criminal Procedure, the Court of the Recorder shall be deemed to be a High Court.

61. The Recorder shall have all the powers of a High Court under the Code of Criminal Procedure in respect of the Magistrates within the local limits of his ordinary civil jurisdiction and the proceedings of such Magistrates.

62. The Recorder shall have the powers of a High Court under the Code of Criminal Procedure for the trial of, and otherwise with reference to, European British subjects and persons charged jointly with European British subjects;

and all commitments of European British subjects and of persons charged jointly with European British subjects on charges of offences committed within British Burma, which would according to the law of criminal procedure for the time being in force be made to a High Court, shall be made to his Court.

63. The proceedings on trials held by the Recorder for the trial of European British subjects, shall be regulated by the Code of Criminal Procedure:



Provided that European officers in the military service, commissioned and non-commissioned, resident within ten miles of the place of sitting of the Court, shall be liable to serve as jurors for the trial of European British subjects.

The officer commanding the station where the Recorder is about to hold a Court of Session shall, when required, send in to the Court a list containing the names of all officers so liable to serve.

The summons to any such officer to serve as a juror shall be sent through the officer commanding the station; but no officer shall be excused from attendance, unless the officer commanding the station shall certify in writing to the Court that the presence of the officer summoned is required elsewhere on urgent military duty: and in such certificate the commanding officer shall supply the name of some other officer for service upon the jury.

64. Sentences of death passed in the exercise of the powers conferred by section sixty-two shall not be carried out without the confirmation of the High Court, to which such sentences shall be referred.

#### (d.) Admiralty Jurisdiction.

65. Throughout British Burma, including the territorial waters thereof, the Recorder shall have and exercise all such civil jurisdiction and maritime jurisdiction of a civil nature as may now be exercised by the High Court as a Court of Admiralty or of Vice-admiralty, and also such jurisdiction for the trial and adjudication of prize-causes and other maritime questions as may now be exercised by the said High Court.

The procedure in cases brought before the Recorder in the exercise of such jurisdiction shall be regulated, as far as may be, by the Code of Civil Procedure; and in all such cases to which the rules contained in the said Code are not applicable, the procedure shall be in accordance with the rules for the time applicable to like cases in the High Court.

An appeal shall lie to the High Court from any sentence or decree of the Recorder under this section, subject to the laws, rules and orders for the time being in force regarding appeals to the High Court under the Code of Civil Procedure.

#### (e.) Insolvent Jurisdiction.

66. Within the Towns of Rangoon, Maulmain, Akyab and Bassein, the Recorder shall have and exercise such powers and authorities with respect to insolvent debtors and their creditors as are for the time being exercisable with respect to insolvent debtors and their creditors by the High Court or a Judge thereof, in Calcutta.

The procedure in cases brought before the Recorder in the exercise of such jurisdiction shall be, as far as may be practicable, in accordance with the procedure prescribed by the 11th & 12th of Victoria, chapter twenty-one.

The Recorder shall, with the previous sanction of the Chief Commissioner, appoint a person to be official assignee in all insolvencies to be prosecuted in the Court of the Recorder; and the provisions of the said Statute relating to official assignees shall, *mutatis mutandis*, apply to the assignee so appointed.

Every order made by the Recorder in the exercise of the jurisdiction conferred by this section shall have the same force throughout British India as if it had been made by the High Court or a Judge thereof,

and all the provisions of the said Statute relating to the persons or property of insolvents shall, *mutatis mutandis*, apply to insolvents applying for relief under this section.

Any person thinking himself aggrieved by any adjudication, order or proceeding of the Court of the Recorder under this section may present, within one month thereafter, a petition to the Special Court; and such Court shall enquire into the matter of the petition and make such order thereon as it thinks just, and such order shall be final and conclusive on all parties, and shall be binding on the Court of the Recorder.

The Recorder may, from time to time, with the previous sanction of the Chief Commissioner, make rules consistent with this Act for facilitating within his jurisdiction

the relief intended to be hereby given; and such rules, on being published in the *British Burma Gazette*, shall have the force of law.

No conveyance, letter-of-attorney, or other instrument executed under any order of the Recorder in exercise of the jurisdiction conferred by this section, shall be chargeable with stamp-duty.

(f.) *Rules, Forms and Registers.*

Power to make rules of practice.

67. The Recorder may—

(a) make and issue general rules for regulating the practice and procedure of his Court and the levy of costs in suits therein;

(b) prescribe forms for every proceeding in his Court for which he thinks that a form should be provided, and

(c) from time to time alter any such rule or form.

The rules so made, and the forms so framed, shall be published in the *British Burma Gazette*, and after being so published shall be observed and used in the said Court:

Provided that such rules and forms shall be consistent with the Codes of Civil and Criminal Procedure and any other law for the time being in force in British Burma, and shall, before they are so published, have received the sanction of the Chief Commissioner.

68. The Recorder may, with the previous sanction of the Chief Commissioner,

Rules for service and execution of process. make, and from time to time, alter, rules to regulate the service and execution of the processes of his Court within the local limits

Table of fees. of his jurisdiction; and may from time to time settle tables of fees to be allowed to the persons employed in such service or execution.

Publication of rules and tables. All such rules and tables shall be published in the *British Burma Gazette*, and shall thereupon have the force of law.

Rules heretofore made to regulate the service and execution of process under Act No. XXI of 1863 (*to constitute Recorders' Courts for the Towns of Akyab, Rangoon and Maulmain in British Burma*; and to establish Courts of Small Causes in the said Towns), or Act No. III of 1866 (*to confer certain increased powers on the Registrars of the Recorders' Courts in British Burma and for other purposes*) and now in force shall continue in force until superseded by rules made under this Act.

Rules now in force.

69. The Recorder shall keep such registers and books and accounts, and submit

Registers and returns.

to the Chief Commissioner such statements and returns as may, subject to the approval of the Governor General in Council, be prescribed by the Chief Commissioner.

The Recorder shall also comply with such requisitions for information as are made by the Chief Commissioner, and, generally, in matters not judicial, shall be subject to the control of the Chief Commissioner.

(g.) *Ministerial Officers.*

70. The ministerial officers of the Court of the Recorder of Rangoon shall be

Appointment and removal of ministerial officers. appointed by the Recorder; who may also remove or suspend them, or fine them in an amount not exceeding one month's salary; but the suspension or removal of any officer drawing a salary of one hundred rupees or upwards shall be subject to the orders of the Chief Commissioner.

(h.) *Holidays.*

71. The Recorder shall, at the commencement of each year, draw up a list of holidays and vacations to be observed in his Court, and shall submit the same for the sanction of the Chief Commissioner.

Holidays and vacations. Such list, when it has received such sanction, shall be published in the *British Burma Gazette*, and the said holidays and vacations shall be observed accordingly.

## CHAPTER V.

## OF THE SPECIAL COURT.

**72.** The Special Court under this Act shall ordinarily be constituted by the Judicial Commissioner and the Recorder of Rangoon sitting together; but the Chief Commissioner may direct any Commissioner to sit in the Court, during the hearing of any case, as an additional Judge. Such Commissioner shall record his opinion in the case, and in case of a difference of opinion, the opinion of the majority shall be the decision of the Court.

When the Judicial Commissioner and Recorder sit together as a Special Court, the senior officer, according to priority of appointment, shall have the precedence in the Court so formed.

**73.** The Special Court shall ordinarily be held in the Town of Rangoon; but the Chief Commissioner may direct it to be held at any other place in British Burma.

Seal to be used.

The Special Court shall use a seal of such form and dimensions as the Chief Commissioner from time to time directs.

**74.** The Judicial Commissioner and the Recorder of Rangoon may from time to time, with the previous sanction of the Chief Commissioner—

(a) make rules for regulating the times and places of the sittings of the Special Court, the reception of applications relating to appeals to such Court, and the distribution of business between the Judges composing it; provided that such rules are consistent with this Act and other laws for the time being in force in British Burma;

(b) make rules to regulate the service and execution of the process of the Special Court; and

(c) settle a table of fees to be allowed to persons employed in such service or execution.

Such rules and table shall be published in the *British Burma Gazette*, and shall thereupon have the force of law.

The Judicial Commissioner and Recorder may also appoint, suspend or remove the ministerial officers of the Special Court: Provided that the suspension or removal of any officer drawing a salary of one hundred rupees and upwards shall be subject to the orders of the Chief Commissioner.

Provided also that in case the Judicial Commissioner and Recorder differ in opinion as to any matter mentioned in this section, such matter shall be referred to the Chief Commissioner, whose order thereon shall be final.

Appeals from certain orders of Judicial Commissioner and Judge of Maulmain.

**75.** Appeals from orders and decrees passed by—

(a) the Judicial Commissioner in the exercise of any jurisdiction transferred to him under section twenty-three, or

(b) the Judge of the Town of Maulmain in civil suits and proceedings,

shall, where an appeal is allowed by law, be heard and determined by the Special Court.

**76.** If in any civil suit or appeal, or in any criminal case or appeal pending in the Court of the Judicial Commissioner or in the Court of the Recorder of Rangoon, the one Court wishes to obtain the opinion of the other on any question of fact or law, or usage having the force of law, or the construction of a document, or wishes to obtain the assistance of the other for the determination of the case pending before it, such Court shall record a memorandum to that effect; and after the receipt of a copy of such memorandum by the other Court, the said Judicial Commissioner and Recorder shall sit together as soon as may be convenient, and shall form a Special Court for the disposal of the said question or for the determination of the case so pending.

In case of difference of opinion, that of the Court which sought the opinion of the other shall prevail.

**77.** The Chief Commissioner may direct that any civil suit or appeal, or any criminal case or appeal, pending in the Court of the Judicial Commissioner or in the Court of the Recorder of Rangoon, shall be transferred to and tried before the Special Court.

78. Any decree or sentence passed by a Special Court as above constituted on a memorandum recorded under section seventy-six, or in a case tried under section seventy-seven, shall issue as, and be deemed to be, a decree or sentence of the Court from which the case was referred to the Special Court.

79. With reference to all trials held by the Judicial Commissioner or the Recorder of Rangoon in the exercise of any original criminal jurisdiction (including jurisdiction transferred under section thirty-six), and to sentences passed on such trials, the Special Court shall be deemed to be, for the purposes of appeal and otherwise, a High Court :

Provided that nothing in the former part of this section applies to sentences of death passed by the Recorder on European British subjects or on persons charged jointly with European British subjects.

80. Whenever, in cases tried by the Judicial Commissioner and Recorder of Rangoon sitting together as a Special Court without a Commissioner, a difference of opinion arises, the following rules shall be observed :—

(a) In cases coming before the Special Court by way of appeal, and not being criminal cases, if the Judicial Commissioner and Recorder do not concur in a judgment varying the decision appealed from, such decision shall be upheld. Provided that, if the difference of opinion arise as to some point of law, or custom having the force of law, or the admissibility of evidence or construction of a document affecting the merits of the case, and if either the Judicial Commissioner or the Recorder be of opinion that the point should be referred to the High Court, they shall state the point as to which they differ, and forward such statement, with their respective opinions thereon, to the High Court.

(b) In criminal cases and in cases not coming before the Special Court by way of appeal, the Judicial Commissioner and the Recorder shall state the point as to which they differ, and forward such statement, with their respective opinions thereon, to the High Court.

81. Where in any case a statement is forwarded under section eighty, the case shall be deemed to be pending in the Special Court until it is finally decided under the provisions hereinafter contained.

82. The High Court shall proceed to decide any point stated under section eighty as if it were an appeal instituted in such Court, except that it shall not be necessary for the parties to appear either personally or by agent. A copy of the decision of the High Court shall be sent to the Special Court, and such Court shall proceed to dispose of the case conformably with that decision.

The costs, if any, consequent on the statement under section eighty, of any case for the opinion of the High Court, shall be costs in the suit or appeal.

83. For the purposes of the Court Fees Act, 1870, the Special Court shall be deemed to be a High Court in the exercise of its jurisdiction as a Court of Appeal or as a Court of Reference, as the case may be.

For the purposes of the Indian Limitation Act, 1871, appeals and applications to the Special Court shall be deemed to be, respectively, appeals and applications to a High Court under the Code of Civil Procedure or under the Code of Criminal Procedure, as the case may be.

## CHAPTER VI.

### OF ADVOCATES.

(a.) *In the Court of the Recorder and the Courts subordinate to him.*

84. No person shall be permitted to appear, plead or act as the advocate of any suitor in the Court of the Recorder, or in any Court subordinate to him, unless such person has been licensed thereto by the Recorder, either generally or specially.

The Recorder may make rules for the qualification and admission of proper persons to act as advocates in such Courts, and may from time to time cancel, vary or add to, any such rules :

Provided that nothing in this section contained shall be deemed to prevent any person from appearing or acting as the agent for the Secretary of State for India in Council, or to prevent any suitor from appearing, pleading or acting on his own behalf or on behalf of a co-suitor :

Provided also that any person, who for the time being is an advocate, vakil or attorney-at-law of any of the High Courts of Judicature in India, shall be entitled, without any such license, to act as an advocate for any suitor in the Court of the Recorder and the Courts subordinate to him.

85. The Recorder may, for any sufficient reason, by order, suspend or withdraw any license granted under section eighty-four.

Any person aggrieved by such order may appeal to the High Court, and for the purposes of the Limitation Act, his appeal shall be deemed to be an appeal under the Code of Civil Procedure.

(b.) *In the Court of the Judicial Commissioner and the Courts subordinate thereto.*

86. No person shall be permitted to appear, plead or act as the advocate of any suitor, or of any appellant, complainant or accused person, in the Court of the Judicial Commissioner, or in any Court, whether civil or criminal, subordinate thereto, unless such person is licensed thereto by the Judicial Commissioner, either generally or specially.

The Judicial Commissioner may from time to time make rules—

(a) for the qualification, admission and enrolment of proper persons to appear, plead or act as aforesaid ; and

(b) for the suspension or dismissal of any such persons who are guilty of fraudulent or grossly improper conduct.

All such rules shall be published in the *British Burma Gazette*.

Any person appearing, pleading or acting in contravention of any such rule, shall be liable, by order of the Court, to a fine not exceeding five hundred rupees.

87. Notwithstanding anything contained in section eighty-six, or in any rule made thereunder,

any person may appear, plead or act as the agent for the Crown or for the Secretary of State for India in Council ; and any suitor may appear, plead or act on behalf of himself or a co-suitor ;

and any person who for the time being is an advocate, vakil or attorney-at-law of any High Court may appear, plead or act as the advocate of any suitor in the Court of the Judicial Commissioner or any Court subordinate thereto.

And nothing contained in section eighty-six, or in any rule made thereunder, shall be deemed to affect the second clause of section 186 of the Code of Criminal Procedure.

(c.) *In the Special Court.*

88. All persons for the time being licensed to appear, plead or act in the Court of the Recorder or the Court of the Judicial Commissioner shall be also entitled to appear, plead or act (as the case may be) in the Special Court.

(d.) *Advocates' Fees.*

89. The fees to be received by any advocate, for business done in any Court under this Act, shall at all times be subject to the control and taxation of the presiding Judge ; and no such fees shall be recoverable unless they have been allowed on taxation by the said Judge, or such officer as he appoints in this behalf.

# CHAPTER VII.

## MISCELLANEOUS.

90. The Judicial Commissioner may from time to time make rules regulating the Power to make rules, as fees payable to practitioners and the control and taxation of costs to costs. in his own Court and in Courts subordinate to him.

The Recorder of Rangoon may from time to time make rules regulating the fees payable to practitioners and the control and taxation of costs in his own Court and in Courts subordinate to him.

And the Special Court may from time to time make rules regulating the fees payable to practitioners and the control and taxation of costs in such Court.

Power to make rules for recording judgments, taking down evidence and admission of affidavits.

91. The Judicial Commissioner, the Recorder of Rangoon, and the Judges of the Special Court may respectively make rules to provide for—

- (a) the recording of their respective judgments, orders and sentences :
- (b) the taking down in their respective Courts of the evidence of witnesses ; and
- (c) the admission in their respective Courts of affidavits as evidence of the matters to which such affidavits respectively relate.

And the Chief Commissioner, on being satisfied that such rules provide sufficiently for the matters to which they respectively refer, may exempt the Judicial Commissioner, the Recorder, or the Special Court (as the case may be) from the operation of such parts of the Code of Civil Procedure and the Code of Criminal Procedure as relate to the mode of recording judgments, orders and sentences and of taking down the evidence of witnesses, and may permit the admission of affidavits as evidence of the matters aforesaid.

92. If any assessor is appointed under section thirty-three or section fifty at the desire of the parties, or any of them, such parties or party shall Remuneration to assessor or appointed at desire of suitor. deposit such sum as the Judicial Commissioner or Recorder, as the case may be, decides to be reasonable compensation to such assessor for his time and trouble. Such sum shall be recoverable as costs in the cause.

Amendment of section 7, Act XV of 1869.

93. Instead of the last paragraph of section seven of the Prisoners' Testimony Act, 1869, the following shall be read :—

"For the purposes of this Act, every jail in British Burma shall be deemed to be situate within the local limits of the appellate jurisdiction of the Judicial Commissioner ; and the Recorder of Rangoon may issue orders, under this section or sections three or four, and may also issue commissions under Part III of this Act, in any jail in British Burma."

94. Notwithstanding anything contained in Act No. XI of 1865, section fifteen, the Government of India shall have, and be deemed to have had, Powers of Small Cause Court Judge in Rangoon. power from time to time to invest any person with the powers of a Judge of the Court of Small Causes in the Town of Rangoon, or elsewhere in British Burma, without specifying any time during which he shall exercise such powers. And all persons so invested shall be deemed to have been duly invested under the same section.

Saving of Acts XIX of 1841, XL of 1858, IX of 1861, as regards British Burma,

95. Notwithstanding any repeal effected by the Burma Courts Act, 1872, section five, the following Acts, namely,—

Act No. XIX of 1841 (*for the protection of moveable and immoveable property against wrongful possession in case of successions*), and

Act No. XL of 1858 (*for making better provision for the care of the persons and property of minors in the Presidency of Fort William in Bengal*), are hereby declared to be, and from the fifteenth day of January, 1863, to have been, in force throughout British Burma :

And Act No. XIV of 1859 (*to provide for the limitation of suits*) as amended by Act No. XIV of 1862, shall be deemed to have been in force throughout the province of Pegu from the same day down to and including the thirty-first day of March 1873.

and of Act XIV of 1859 as regards Pegu.

96. The Judge of the Town of Manmian shall, for the purposes of the European British Minors Act, 1874, sections two and eight, be deemed to be a Deputy Commissioner: provided that appeals from his orders under that Act shall lie to the Special Court.

97. Save as otherwise provided by this Act, the Code of Civil Procedure shall be, and shall on and from the fifth day of April, 1872, be deemed to have been, in force throughout British Burma.

98. The unrepealed parts of the following Regulations of the Bengal Code shall, *mutatis mutandis*, be deemed to extend to British Burma, namely:—

Regulation V of 1799, section seven—Wills and Intestacies of Natives;  
 " V of 1817—Hidden treasure; and  
 " III of 1818—State Prisoners.

## ACT XVIII OF 1875.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor General on the 13th October 1875.)

### *An Act for the improvement of Law Reports.*

WHEREAS it is expedient to diminish the multitude and expense of the Law Reports published in British India, and to improve their quality: And whereas, with a view to furthering these objects, the Governor General in Council proposes to authorize the publication of reports of cases decided by the High Courts of Judicature established under the twenty-fourth and twenty-fifth of Victoria, chapter 104; It is hereby enacted as follows:—

1. This Act may be called "The Indian Law Reports Act, 1875:—

Local extent. It extends to the whole of British India;

Commencement. And it shall come into force on such day as the Governor General in Council notifies in this behalf in the *Gazette of India*.

2. Act No. II of 1875 (*to diminish the multitude and improve the quality of Law Reports, and to extend the area of their authority*) is hereby repealed.

3. No Court shall be bound to hear cited, or shall receive or treat as an authority binding on it, the report of any case decided by any of the said High Courts on or after the said day, other than a report published under the authority of the Governor General in Council.

4. Nothing herein contained shall be construed to give to any judicial decision any further or other authority than it would have had if this Act had not been passed.

## ACT XIX OF 1875.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor General on the 13th October 1875.)

*An Act to provide an appeal from certain decrees of the Chief Court of the Panjáb, and for other purposes.*

WHEREAS it is expedient to give a right of appeal from certain decrees and orders of the Chief Court of the Panjáb, and to enable the Appellate Court to remand suits and order retrials, and to empower Judges



of the said Chief Court to make references as to points of law ; It is hereby enacted as follows :—

1. Subject to the provisions hereinafter contained, an appeal shall lie to the said Chief Court from any decree or order (not being an order made in any criminal trial) made in the exercise of original jurisdiction either by one Judge of the said Chief Court, or by a Bench of two Judges of the same Court, unless such Judges concur in the judgment.

When a suit is heard by a Bench of two Judges, exercising original jurisdiction, the judgment of the senior Judge shall be the judgment of the Bench, and the decree or order shall follow thereupon, and any appeal therefrom shall be heard by a Full Bench.

If the decree or order appealed from was made by a single Judge, the appeal shall be heard either by the two other Judges of the said Chief Court or by a Full Bench, as the Court may determine, either by rule made under Act No. IV of 1866, section 43, or, in the absence of such rule, by order in the particular case.

When the appeal is heard by two Judges, and they do not concur in varying the decree or order appealed from, such decree or order shall be taken as the final decree or order of the said Chief Court, unless such Court orders (as it is hereby empowered to do) the appeal to be reheard before the Full Bench.

2. Every appeal under this Act must be presented within thirty days from the date of the decree or order appealed against.

But if the period of limitation so prescribed expires on a day when the Court is closed, the appeal may be presented on the day that the Court re-opens.

3. Any such appeal may be admitted after the period of limitation so prescribed, when the appellant satisfies the Court that he had sufficient cause for not presenting it within such period ; and in the case of any decree against which the Chief Court has declared an appeal to Her Majesty in Council to be admitted under Act No. VI of 1874, the non-existence of this Act shall be deemed to be sufficient cause within the meaning of this section : provided that the copy of the record has not been transmitted to Her Majesty in Council.

4. In computing such period, the day on which the judgment complained of was pronounced, and the time requisite for obtaining a copy of the decree or order appealed against, shall be excluded.

5. When an appeal under this Act has been heard, the Appellate Court may remand the suit in accordance either with section 371 or section 374 of the Code of Civil Procedure, or may order that the case be tried again either by a Full Bench or by the Court that has already tried it.

6. A single Judge, or a Bench of two Judges (whether exercising original or appellate jurisdiction), may refer for the decision of a Full Bench any question of law arising in any suit or on any appeal before such Judge or Bench of two Judges ; and the Judge or Bench making the reference shall dispose of the case conformably to the decision of the Full Bench of the question so referred.

7. In case of a difference of opinion among the Judges forming the Full Bench as to the decision to be given on any question coming before them under any provision of this Act, such question shall be decided according to the opinion of the majority of such Judges.

8. This Act shall be read with, and taken as part of, the Panjáb Chief Court Act, 1866.

This Act to be read with Act IV of 1866.

Power to make reference on points of law.

Power to remand or order new trial.

Computation of period.

Admission after period has expired.

Time for presenting such appeals.

Appeal from decrees in exercise of original jurisdiction.



## THE CENTRAL PROVINCES LAWS ACT, 1875.

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## SCHEDULE.

## ACT XX OF 1875.

PASSED BY THE PRESIDENT IN COUNCIL ON 23RD NOVEMBER 1875.

(Received the assent of the Governor General on the 9th December 1875.)

*An Act to declare and amend the Law in force in the Central Provinces.*

WHEREAS it is expedient to declare and amend certain portions of the law in force in the Central Provinces; It is hereby enacted as follows:—

**Short title.** 1. This Act may be called "The Central Provinces Laws Act, 1875:"

**Local extent.** It extends to the territories now under the administration of the Chief Commissioner of the Central Provinces;

**Commencement.** And it shall come into force on the passing thereof.

**Repeal of enactments and rules.** 2. On and from the date on which this Act comes into force the following shall be repealed, that is to say,—

(a) all Bengal Regulations except the Regulations or parts of Regulations hereinafter declared to be in force;

(b) all Acts of the Governor General in Council (except the Acts mentioned in the schedule hereto annexed), which do not expressly or by necessary implication extend to the said territories or any part thereof, and have not been extended thereto in exercise of a power conferred by an Act of the Governor General in Council;

(c) all rules, regulations and enactments not being Statutes, Bengal Regulations, Acts of the Governor General in Council, or rules or regulations made in exercise of a power conferred by a Statute, Bengal Regulation, or Act of the Governor General in Council:

Provided that nothing in this section shall affect any rules, regulations, enactments or laws relating to the settlement and collection of land-revenue or the jurisdiction of Courts of Wards, which may be in force at the passing of this Act in any part of the said territories.

3. On and from the said date the enactments specified in the schedule hereto annexed shall be deemed to be in force throughout the said territories, to the extent mentioned in the third column of the said schedule.

But the powers and duties incident to the operation of the same enactments, so far as such powers and duties are referred to in the fourth column of the said schedule, shall be exercised and performed by the authorities mentioned in that column.

Nothing in this section shall be deemed to affect the operation of any enactment not mentioned in the said schedule.

4. Every Act of the Governor General in Council, which extends, or can by Confirmation of existing notification be extended, to the territories which were under the Acts. administration of the said Chief Commissioner at the time of the passing thereof, shall extend, or may by notification be extended, as the case may be, to all the territories now under the administration of the said Chief Commissioner.

5. In questions regarding inheritance, special property of females, betrothal, Rules of decision in cases marriage, dower, adoption, guardianship, minority, bastardy, family of certain classes. relations, wills, legacies, gifts, partitions, or any religious usage or institution, the rule of decision shall be the Muhammadan law in cases where the parties are Muhammadans, and the Hindú law in cases where the parties are Hindús, except in so far as such law has been by legislative enactment altered or abolished, or is opposed to the provisions of this Act :

Provided that when among any class or body of persons or among the members of any family any custom prevails, which is inconsistent with the law applicable between such persons under this section, and which, if not inconsistent with such law, would have been given effect to as legally binding, such custom shall, notwithstanding anything herein contained, be given effect to.

6. In cases not provided for by section five, or by any other law for the time being in force, the Courts shall act according to justice, equity and good conscience.

7. Implements of husbandry and cattle for agricultural purposes and implements of trade are exempted from attachment and sale in execution of decrees of the Civil Courts.

Articles exempt from attachment. Power to make subsidiary rules.

8. The said Chief Commissioner may from time to time make rules consistent with this Act as to the following matters:—

(a) the maintenance of watch and ward and the establishment of a proper system of conservancy and sanitation at fairs and other large public assemblies ;

(b) the imposition of taxes for the purposes mentioned in clause (a) of this section on persons holding or joining any of the assemblies therein referred to ;

(c) the custody of judicial records, civil and criminal, and the destruction from time to time of such of the said records as it may be deemed unnecessary to keep ;

(d) the appointment, duties, punishment, suspension and dismissal of all ministerial officers.

9. The Chief Commissioner may, in making any rule under this Act, attach to the Penalty for breach of breach of it, in addition to any other consequences that would ensue from such breach, a punishment, on conviction before a Magistrate, not exceeding one month's imprisonment, or two hundred rupees fine or both.

10. All rules made under this Act shall, when sanctioned by the Governor General in Council, be published in the *Central Provinces Gazette*, and shall thereupon have the force of law.

Publication of rules.  
Force of rules.

## SCHEDULE.

(See section 3.)

## A.—BENGAL REGULATIONS.

Number and year of Regulation.	Subject.	Extent of operation.	Powers or duties how to be exercised or performed.
1	2	3	4
I of 1793	The prevention of fraud and injustice in conditional sales of land under deeds of Bai-bil-wafa or other deeds of the same nature.	The whole.	The functions of "the Dīwānī Adalat" shall be discharged by the "District Court" as defined in section three, Act XIV of 1865 (The Central Provinces Courts Act).
V of 1799	Estates of Intestates.	Sections IV, V and VI.	The functions of the Court of "Sadr Dīwānī Adalat" shall be performed by the Judicial Commissioner.
X of 1804	Punishment of State offences by Courts-Martial.	So much as has not been repealed.	
XI of 1806	Passage of Troops.	Sections II to VI and section VIII, with the exception of such part as authorizes Collectors and their Native Officers, or Magistrates and their Police Officers, to give their official aid in procuring coolies for the purpose of facilitating the march of troops or the progress of travellers, and with the exception, in section VIII, of the words and figures "under the rules prescribed by Regulation V, 1804."	The powers of the "Governor General in Council" and of the "Board of Revenue" shall be exercised by the Chief Commissioner.
XVII of 1806	Redemption and foreclosure of mortgages and conditional sales of land under deeds of Bai-bil-wafa, &c.	Sections VII and VIII.	The functions of the "Zila or City Court of Dīwānī Adalat" shall be discharged by the "District Court" as defined in section three, Act XIV of 1865 (The Central Provinces Courts Act).
XX of 1810	Camp-followers and Bázars.	So much as has not been repealed, except sections I to III, VI, XX, and in section VII the words "as described in the plans."	
XI of 1809	Foreign Immigrants.	So much as has not been repealed.	The powers of the "Nizamat Adalat" shall be exercised by the Judicial Commissioner.

SCHEDULE.—*continued.*

A.—BENGAL REGULATIONS,—*continued.*

Number and year of Regulation.	Subject.	Extent of operation.	Powers or duties how to be exercised or performed.
1	2	3	4
V of 1817 ...	Hidden treasure ...	So much of the Regulation as is not repealed, with the exception of (a) the first portion of section V down to and including the words "to such treasure." (b) the following words in section VIII, that is to say, "on the application of the vakil of Government, under instructions from the Board of Revenue, or the Board of Commissioners in the Western Provinces, or the Commissioner in Behar and Benares."	The functions of the "Zila or City Court" shall be performed by the Court of the Deputy Commissioner; those of the "Provincial Court" by that of the Commissioner, and those of the "Sadr Diwani Adalat" by that of the Judicial Commissioner.
III of 1818 ...	State Prisoners ...	So much as has not been repealed.	
VI of 1819 ...	Ferries ...	So much as has not been repealed, with the exception of, in section VII, the words and figures "in no case exceeding, without an indispensable necessity, the rates which prevailed previous to the enactment of Regulation XIX, 1816," and in section X the words and figures from and including "in the manner" down to the end of the section.	
V of 1825 ...	Supply of troops on the march.	The whole	The powers of the "Board of Revenue" shall be exercised by the Chief Commissioner.
1825 ...	Alluvion and Diluvion.	The whole.	
X of 1825 ...	Jurisdiction of Courts-Martial.	Sections I and II.	
of 1827 ...	Administration of landed property.	So much as has not been repealed, except the words and figures "and clauses five and six, section XVI, Regulation III, 1803."	The powers of the "Board of Revenue" shall be exercised by the Chief Commissioner.

## SCHEDULE,—(concluded.)

## B.—ACTS OF THE GOVERNOR GENERAL IN COUNCIL.

Number and year of Act.	Subject.	Extent of operation.
1	2	3
VIII of 1861	Tolls on Roads and Bridges...	The whole Act, except section one and the schedule.
XVIII of 1863	Sale of spirits in Cantonments.	The whole Act.
XIII of 1857	Opium	Sections twenty-one, twenty-two, twenty-three, twenty-five, twenty-six, twenty-seven, twenty-eight, twenty-nine.
XL of 1858	Minors	The whole Act, except section one, and subject to the amendment made by the Indian Majority Act, 1875.
XV of 1864	Tolls...	The whole Act.

## ACT XXI of 1875.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

*(Received the assent of the Governor General on the 14th December 1875).**An Act to authorize the University at Calcutta to grant Honorary Degrees.*

WHEREAS, under Act No. II of 1857, an University was established at Calcutta for the purpose of ascertaining by examination the persons who had acquired proficiency in different branches of Literature, Science and Art, and of rewarding them by Academical Degrees as evidence of their respective attainments: and by section eight of the same Act the Chancellor, Vice-Chancellor and Fellows for the time being of the said University were empowered to make bye-laws and regulations touching the examination for such Degrees and the granting of the same;

And whereas, by section eleven of the same Act, it was provided that the said Chancellor, Vice-Chancellor and Fellows should have power after examination to confer the several Degrees therein mentioned;

And whereas, under Act No. XLVII of 1860, the Chancellor, Vice-Chancellor and Fellows for the time being of the said University were empowered to confer such Degrees as they should appoint by bye-laws and regulations made and approved as therein mentioned, and all the provisions of the said Act No. II of 1857 with respect to the Degrees therein mentioned, and the examination for those Degrees were declared to apply to Degrees conferred under the said Act No. XLVII of 1860, and to the examinations for such Degrees;

And whereas, under bye-laws and regulations made in exercise of the said powers, the executive government of the said University is now vested in a Syndicate consisting of the Vice-Chancellor and six of the Fellows of the said University; and it is the duty of the said syndicate (among other things) to grant Academical Degrees;

And whereas it is expedient to authorize the said Syndicate to grant such Degrees to persons who have not undergone a previous examination ; It is hereby enacted as follows :—

1. With the previous consent of the said Chancellor, the said Syndicate for the time being may grant any Academical Degree to any person without requiring him to undergo any examination for such Degree :

Power to confer Honorary Degrees.

Provided that the Vice-Chancellor and not less than four of the other members of the said Syndicate for the time being certify in writing that in his and their opinion such person is, by reason of eminent position and attainments, a fit and proper person to receive such Degree.









